TITLE 29—LABOR

CHAPTER 1—LABOR STATISTICS

SUBCHAPTER I—BUREAU OF LABOR STATISTICS

§ 7. Repealed. Pub. L. 86–3, §§ 15, 23, Mar. 18, 1959, 73 Stat. 11, 13

Section, acts Apr. 30, 1900, ch. 339, § 76, 31 Stat. 155; Apr. 8, 1904, ch. 948, 33 Stat. 164; Mar. 4, 1913, ch. 141, § 3, 37 Stat. 737, directed the United States Commissioner of Labor Statistics to assemble and report on statistical details relating to all departments of labor in the Territory of Hawaii.

CHAPTER 4B—FEDERAL EMPLOYMENT SERVICE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 605, 813, 815 of this title; title 7 sections 2043, 2045; title 39 section 3202; title 42 sections 1101, 4728.

§§ 49, 49a

TRANSFER OF FUNCTIONS

All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 49c–1. Transfer to States of property used by United States Employment Service

TRANSFER OF FUNCTIONS

All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 49d. Appropriations; certification for payment to States

TRANSFER OF FUNCTIONS

All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§§ 49g, 49h

TRANSFER OF FUNCTIONS

All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§§ 49j, 49k

TRANSFER OF FUNCTIONS

All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

CHAPTER 4C—APPRENTICE LABOR

§ 50. Promotion of labor standards of apprenticeship

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see sections 3441 and 3503 of Title 20, Education.

CHAPTER 5—LABOR DISPUTES; MEDIATION AND INJUNCTIVE RELIEF

§ 51. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 642

Section, act Mar. 4, 1913, ch. 141, § 8, 37 Stat. 738, related to mediation in labor disputes and the appointment of commissioners of conciliation.

CHAPTER 7—LABOR-MANAGEMENT RELATIONS

SUBCHAPTER III—CONCILIATION OF LABOR DISPUTES; NATIONAL EMERGENCIES

Sec.

175a. Assistance to plant, area, and industrywide labor management committees [New].
(a) Establishment and operation of plant, area, and industrywide committees.
(b) Restrictions on grants, contracts, or other assistance.
(c) Establishment of office.
(d) Authorization of appropriations.

SUBCHAPTER I—GENERAL PROVISIONS

§ 141. Short title; Congressional declaration of purpose and policy

SHORT TITLE

Section 6(a) of Pub. L. 95-524, Oct. 27, 1978, 92 Stat. 2020, provided that: "This section [enacting section 175a of this title, amending sections 173 and 186 of this title, and enacting provisions set out as notes under section 175a of this title] may be cited as the 'Labor Management Cooperation Act of 1978'."

SUBCHAPTER II—NATIONAL LABOR RELATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

.This subchapter is referred to in sections 142, 186, 402 of this title; title 15 section 1014; title 18 section 1951; title 39 section 1209; title 42 sections 300t-12, 2000e; title 43 section 1333; title 47 section 222; title 50 sections 784, 792a.

§ 152. Definitions

When used in this subchapter—

(1) The term "person" includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in cases under title 11, or receivers.

[See main edition for text of (2) to (14)]

(As amended Nov. 6, 1978, Pub. L. 95-598, title III, § 319, 92 Stat. 2678.)

AMENDMENTS

1978—Par. (1). Pub. L. 95-598 substituted "cases under title 11" for "bankruptcy"

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 1861; title 50 section 784.

§ 157. Right of employees as to organization, collective bargaining, etc.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 158, 158a, 175a, 433 of this title; title 18 section 1951; title 50 section 792a.

§ 165. Conflict of laws

REFERENCES IN TEXT

Section 672 of title 11, referred to in text, in the original read "section 272 of chapter 10 of the Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, and Acts amendatory thereof and supplementary thereto (U.S.C., title 11, sec. 672)" The Bankruptcy Act of 1898 was classified generally to former Title 11, Bankruptcy, and was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11.

SUBCHAPTER III—CONCILIATION OF LABOR DISPUTES; NATIONAL EMERGENCIES

§ 171. Declaration of purpose and policy

EXECUTIVE ORDER No. 11482

Ex. Ord. No. 11482, Sept. 22, 1969, 34 F.R. 14723, which related to the Construction Industry Collective Bargaining Commission, was revoked by Ex. Ord. No. 12110, Dec. 28, 1978, 44 F.R. 1069, set out as a note under section 14 of the Federal Advisory Committee Act, in the Appendix to Title 5, Government Organization and Employees.

EXECUTIVE ORDER No. 11849

Ex. Ord. No. 11849, Apr. 1, 1975, 40 F.R. 14887, which related to the Collective Bargaining Committee in Construction, was revoked by Ex. Ord. No. 12110, Dec. 28, 1978, 44 F.R. 1069, set out as a note under section 14 of the Federal Advisory Committee Act, set out in the Appendix to Title 5.

§ 173. Functions of Service

[See main edition for text of (a) to (d)]

(e) Encouragement and support of establishment and operation of joint labor management activities conducted by committees

The Service is authorized and directed to encourage and support the establishment and operation of joint labor management activities conducted by plant, area, and industrywide committees designed to improve labor management relationships, job security and organizational effectiveness, in accordance with the provisions of section 175a of this title.

(As amended Oct. 27, 1978, Pub. L. 95-524, § 6(c)(1), 92 Stat. 2020.)

AMENDMENTS

1978—Subsec. (e). Pub. L. 95-524 added subsec. (e).

APPLICABILITY TO COLLECTIVE BARGAINING AGREEMENTS

Amendment by Pub. L. 95-524 not to affect the terms and conditions of any collective bargaining agreement whether in effect prior to or entered into after Oct. 27, 1978, see section 6(e) of Pub. L. 95-524, set out as a note under section 175a of this title.

§ 175a. Assistance to plant, area, and industrywide labor management committees

(a) Establishment and operation of plant, area, and industrywide committees

(1) The Service is authorized and directed to provide assistance in the establishment and operation of plant, area and industrywide labor management committees which—

(A) have been organized jointly by employers and labor organizations representing employees in that plant, area, or industry; and

(B) are established for the purpose of improving labor management relationships, job security, organizational effectiveness, enhancing economic development or involving workers in decisions affecting their jobs including improving communication with respect to subjects of mutual interest and concern.

(2) The Service is authorized and directed to enter into contracts and to make grants, where

necessary or appropriate, to fulfill its responsibilities under this section.

(b) Restrictions on grants, contracts, or other assistance

(1) No grant may be made, no contract may be entered into and no other assistance may be provided under the provisions of this section to a plant labor management committee unless the employees in that plant are represented by a labor organization and there is in effect at that plant a collective bargaining agreement.

(2) No grant may be made, no contract may be entered into and no other assistance may be provided under the provisions of this section to an area or industrywide labor management committee unless its participants include any labor organizations certified or recognized as the representative of the employees of an employer participating in such committee. Nothing in this clause shall prohibit participation in an area or industrywide committee by an employer whose employees are not represented by a labor organization.

(3) No grant may be made under the provisions of this section to any labor management committee which the Service finds to have as one of its purposes the discouragement of the exercise of rights contained in section 157 of this title, or the interference with collective bargaining in any plant, or industry.

(c) Establishment of office

The Service shall carry out the provisions of this section through an office established for that purpose.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this section $10,000,000 for the fiscal year 1979, and such sums as may be necessary thereafter.

(June 23, 1947, ch. 120, title II, § 205A, as added Oct. 27, 1978, Pub. L. 95–524, § 6(c)(2), 92 Stat. 2020.)

SHORT TITLE

For short title of section 6 of Pub. L. 95–524 as the Labor Management Cooperation Act of 1978, see Short Title note set out under section 141 of this title.

APPLICABILITY TO COLLECTIVE BARGAINING AGREEMENTS

Section 6(e) of Pub. L. 95–524 provided that: "Nothing in this section [enacting this section, amending sections 173 and 186 of this title, and enacting provisions set out as notes under this section] or the amendments made by this section shall affect the terms and conditions of any collective bargaining agreement whether in effect prior to or entered into after the date of enactment of this section [Oct. 27, 1978]."

CONGRESSIONAL STATEMENT OF PURPOSE

Section 6(b) of Pub. L. 95–524 provided that:

"It is the purpose of this section [enacting this section and amending sections 173 and 186 of this title]—

"(1) to improve communication between representatives of labor and management;

"(2) to provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

"(3) to assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

"(4) to study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the plant, area or industry;

"(5) to enhance the involvement of workers in making decisions that affect their working lives;

"(6) to expand and improve working relationships between workers and managers; and

"(7) to encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance to the formation and operation of labor management committees."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 173 of this title.

SUBCHAPTER IV—LIABILITIES OF AND RESTRICTIONS ON LABOR AND MANAGEMENT

§ 186. Restrictions on financial transactions

[*See main edition for text of* (a) *and* (b)]

(c) Exceptions

The provisions of this section shall not be applicable (1) in respect to any money or other thing of value payable by an employer to any of his employees whose established duties include acting openly for such employer in matters of labor relations or personnel administration or to any representative of his employees, or to any officer or employee of a labor organization, who is also an employee or former employee of such employer, as compensation for, or by reason of, his service as an employee of such employer; (2) with respect to the payment or delivery of any money or other thing of value in satisfaction of a judgment of any court or a decision or award of an arbitrator or impartial chairman or in compromise, adjustment, settlement, or release of any claim, complaint, grievance, or dispute in the absence of fraud or duress; (3) with respect to the sale or purchase of an article or commodity at the prevailing market price in the regular course of business; (4) with respect to money deducted from the wages of employees in payment of membership dues in a labor organization: *Provided*, That the employer has received from each employee, on whose account such deductions are made, a written assignment which shall not be irrevocable for a period of more than one year, or beyond the termination date of the applicable collective agreement, whichever occurs sooner; (5) with respect to money or other thing of value paid to a trust fund established by such representative, for the sole and exclusive benefit of the employees of such employer, and their families and dependents (or of such employees, families, and dependents jointly with the employees of other employers making similar payments, and their families and dependents): *Provided*, That (A) such payments are held in trust for the purpose of paying, either from principal or income or both, for the benefit of employees, their families and dependents, for medical or hospital care, pensions on retirement or death of employees, compensation for injuries or illness resulting from occupational activity or insurance to provide any of the foregoing, or unemployment benefits or life insur-

ance, disability and sickness insurance, or accident insurance; (B) the detailed basis on which such payments are to be made is specified in a written agreement with the employer, and employees and employers are equally represented in the administration of such fund, together with such neutral persons as the representatives of the employers and the representatives of employees may agree upon and in the event the employer and employee groups deadlock on the administration of such fund and there are no neutral persons empowered to break such deadlock, such agreement provides that the two groups shall agree on an impartial umpire to decide such dispute, or in event of their failure to agree within a reasonable length of time, an impartial umpire to decide such dispute shall, on petition of either group, be appointed by the district court of the United States for the district where the trust fund has its principal office, and shall also contain provisions for an annual audit of the trust fund, a statement of the results of which shall be available for inspection by interested persons at the principal office of the trust fund and at such other places as may be designated in such written agreement; and (C) such payments as are intended to be used for the purpose of providing pensions or annuities for employees are made to a separate trust which provides that the funds held therein cannot be used for any purpose other than paying such pensions or annuities; (6) with respect to money or other thing of value paid by any employer to a trust fund established by such representative for the purpose of pooled vacation, holiday, severance or similar benefits, or defraying costs of apprenticeship or other training programs: *Provided*, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (7) with respect to money or other thing of value paid by any employer to a pooled or individual trust fund established by such representative for the purpose of (A) scholarships for the benefit of employees, their families, and dependents for study at educational institutions, or (B) child care centers for preschool and school age dependents of employees: *Provided*, That no labor organization or employer shall be required to bargain on the establishment of any such trust fund, and refusal to do so shall not constitute an unfair labor practice: *Provided further*, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (8) with respect to money or any other thing of value paid by any employer to a trust fund established by such representative for the purpose of defraying the costs of legal services for employees, their families, and dependents for counsel or plan of their choice: *Provided*, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds: *Provided further*, That no such legal services shall be furnished: (A) to initiate any proceeding directed (i) against any such employer or its officers or agents except in workman's compensation cases, or (ii) against such labor organization, or its parent or subordinate bodies, or their officers or agents, or (iii) against any other employer or labor organization, or their officers or agents, in any matter arising under subchapter II of this chapter or this chapter; and (B) in any proceeding where a labor organization would be prohibited from defraying the costs of legal services by the provisions of the Labor-Management Reporting and Disclosure Act of 1959 [29 U.S.C. 401 et seq.]; or (9) with respect to money or other things of value paid by an employer to a plant, area or industrywide labor management committee established for one or more of the purposes set forth in section 5(b) of the Labor Management Cooperation Act of 1978.

[*See main edition for text of* (d) *to* (g)]

(As amended Oct. 27, 1978, Pub. L. 95-524, § 6(d), 92 Stat. 2021.)

REFERENCES IN TEXT

Section 5(b) of the Labor Management Cooperation Act of 1978, referred to in subsec. (c)(9), probably means section 6(b) of Pub. L. 95-524, which is set out as a note under section 175a of this title.

CODIFICATION

Part II of the Interstate Commerce Act, referred to in subsec. (b)(2), which was classified to chapter 8 (§ 301 et seq.) of Title 49, Transportation, was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. The definition of motor vehicle is now contained in section 10102 of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-524 added cl. (9).

APPLICABILITY TO COLLECTIVE BARGAINING AGREEMENTS

Amendment by Pub. L. 95-524 shall not affect the terms and conditions of any collective bargaining agreement whether in effect prior to or entered into after Oct. 27, 1978, see section 6(e) of Pub. L. 95-524, set out as an Effective Date note under section 175a of this title.

CHAPTER 8—FAIR LABOR STANDARDS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 251 to 262, 795, 879, of this title; title 7 sections 2015, 2026; title 15 sections 1014, 3152; title 38 section 618; title 41 section 355; title 42 sections 3056, 5044, 8009.

§ 201. Short title

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-151, § 1(a), Nov. 1, 1977, 91 Stat. 1245, provided that: "This Act [amending sections 203, 206, 208, 213, 214, and 216 of this title, and enacting provisions set out as notes under sections 203, 204, and 213 of this title] may be cited as the 'Fair Labor Standards Amendments of 1977'."

SHORT TITLE OF 1949 AMENDMENT

Act Oct. 26, 1949, ch. 736, § 1, 63 Stat. 910, provided: "That this Act [enacting section 216b of this title, amending sections 202 to 208, 211 to 216, and 217 of this title, and repealing section 216a of this title] may be cited as the 'Fair Labor Standards Amendments of 1949'."

§ 203. Definitions

As used in this chapter—

[*See main edition for text of (a) to (l)*]

(m) "Wage" paid to any employee includes the reasonable cost, as determined by the Administrator, to the employer of furnishing such employee with board, lodging, or other facilities, if such board, lodging or other facilities are customarily furnished by such employer to his employees: *Provided*, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: *Provided further*, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee. In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 40 per centum of the applicable minimum wage rate, except that the amount of the increase on account of tips determined by the employer may not exceed the value of tips actually received by the employee. The previous sentence shall not apply with respect to any tipped employee unless (1) such employee has been informed by the employer of the provisions of this subsection, and (2) all tips received by such employee have been retained by the employee, except that this subsection shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips.

[*See main edition for text of (n) to (r)*]

(s) "Enterprise engaged in commerce or in the production of goods for commerce" means an enterprise which has employees engaged in commerce or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person, and which—

(1) during the period February 1, 1967, through January 31, 1969, is an enterprise whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level which are separately stated) or is a gasoline service establishment whose annual gross volume of sales is not less than $250,000 (exclusive of excise taxes at the retail level which are separately stated), and beginning February 1, 1969, is an enterprise, other than an enterprise which is comprised exclusively of retail or service establishments and which is described in paragraph (2), whose annual gross volume of sales made or business done is not less than $250,000 (exclusive of excise taxes at the retail level which are separately stated);

(2) is an enterprise which is comprised exclusively of one or more retail or service establishments, as defined in section 213(a)(2) of this title, and whose annual gross volume of sales made or business done is not less than $250,000 (exclusive of excise taxes at the retail level which are separately stated), beginning July 1, 1978, whose annual gross volume of sales made or business done is not less than $275,000 (exclusive of excise taxes at the retail level which are separately stated), beginning July 1, 1980, whose annual gross volume of sales made or business done is not less than $325,000 (exclusive of excise taxes at the retail level which are separately stated), and after December 31, 1981, whose annual gross volume of sales made or business done is not less than $362,500 (exclusive of excise taxes at the retail level which are separately stated);

(3) is engaged in laundering, cleaning, or repairing clothing or fabrics;

(4) is engaged in the business of construction or reconstruction, or both;

(5) is engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, a preschool, elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit); or

(6) is an activity of a public agency.

Any establishment which has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of such owner shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of such an enterprise, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection. The employees of an enterprise which is a public agency shall for purposes of this subsection be deemed to be employees engaged in commerce, or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce.

Notwithstanding paragraph (2), an enterprise which is comprised of one or more retail or service establishments, which on June 30, 1978, was subject to section 206(a)(1) of this title, and which because of a change in the dollar volume standard in such paragraph prescribed by the Fair Labor Standards Amendments of 1977 is not subject to such section, shall, if its annual gross volume of sales made or business done is not less than $250,000 (exclusive of excise taxes at the retail level which are separately stated), pay its employees not less than the minimum wage in effect under such section on the day before such change takes effect and shall pay its employees in accordance with section 207 of this title. A violation of the preceding sentence shall be considered a violation of section 206 or 207 of this title, as the case may be.

(t) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than $30 a month in tips.

[See main edition for text of (u) to (x)]

(As amended Nov. 1, 1977, Pub. L. 95-151, §§ 3(a), (b), 9(a)-(c), 91 Stat. 1249, 1251.)

REFERENCES IN TEXT

The Fair Labor Standards Amendments of 1977, referred to in subsec. (s), is Pub. L. 95-151, Nov. 1, 1977, 91 Stat. 1245, which is classified to sections 203, 203 note, 204 note, 206, 208, 213, 213 note, 214, and 216 of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendments note set out under section 201 of this title and Tables.

AMENDMENTS

1977—Subsec. (m). Pub. L. 95-151, § 3(b), substituted "45 per centum" for "50 per centum", effective Jan. 1, 1979, and "40 per centum" for "45 per centum", effective Jan. 1, 1980.

Subsec. (s). Pub. L. 95-151, § 9(a) to (c), in par. (1) added exception for enterprises comprised exclusively of retail or service establishments and described in par. (2), added par. (2), redesignated former pars. (2) to (5) as (3) to (6), respectively, and in material following par. (6), as so redesignated, added provisions relating to coverage of retail or service establishments subject to section 206(a)(1) of this title on June 30, 1978, and provisions relating to violations of such coverage requirements.

Subsec. (t). Pub. L. 95-151, § 3(a), substituted "$30" for "$20".

EFFECTIVE DATE OF 1977 AMENDMENT

Section 3(a) of Pub. L. 95-151 provided in part that the amendment of subsec. (t) of this section by section 3(a) of Pub. L. 95-151 is effective Jan. 1, 1978.

Section 3(b)(1) of Pub. L. 95-151 provided in part that the amendment to subsec. (m) of this section by section 3(b)(1) of Pub. L. 95-151, reducing the maximum percentage of the minimum wage used in determining tips as wages from 50 to 45 per centum, is effective Jan. 1, 1979.

Section 3(b)(2) of Pub. L. 95-151 provided in part that the amendment to subsec. (m) of this section by section 3(b)(2) of Pub. L. 95-151, reducing the maximum percentage of the minimum wage used in determining tips as wages from 45 to 40 per centum, is effective Jan. 1, 1980.

Section 15(a), (b) of Pub. L. 95-151 provided that:

"(a) Except as provided in sections 3, 14, and subsection (b) of this section, the amendments made by this Act [amending sections 206, 208, 213(a)(3), (b)(22), (25), (26), (29), (i), (j), and 216 of this title, and enacting provision set out as a note under section 204 of this title] shall take effect January 1, 1978.

"(b) The amendments made by sections 8, 9, 11, 12, and 13 [amending subsec. (s) of this section, and sections 213(a)(2), (3), (c)(1), (4) and 214 of this title] shall take effect on the date of the enactment of this Act [Nov. 1, 1977]."

STATUS OF BAGGERS AT COMMISSARY OF MILITARY DEPARTMENT

Pub. L. 95-485, title VIII, § 819, Oct. 20, 1978, 92 Stat. 1626, provided that: "Notwithstanding any other provision of law, an individual who performs bagger or carryout service for patrons of a commissary of a military department may not be considered to be an employee for purposes of the Fair Labor Standards Act of 1938 [this chapter] by virtue of such service if the sole compensation of such individual for such service is derived from tips."

ADMINISTRATIVE ACTION BY SECRETARY OF LABOR WITH REGARD TO IMPLEMENTATION OF FAIR LABOR STANDARDS AMENDMENTS OF 1977

Section 15(c) of Pub. L. 95-151 provided that: "On and after the date of the enactment of this Act [Nov. 1, 1977], the Secretary of Labor shall take such administrative action as may be necessary for the implementation of the amendments made by this Act [See Short Title of 1977 Amendment note set out under section 201 of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 213 of this title; title 7 section 2042; title 26 section 3121; title 49 section 303.

§ 204. Administration

TRANSFER OF FUNCTIONS

All functions relating to enforcement and administration of equal pay provisions vested by subsecs. (d)(1) and (f) of this section in the Secretary of Labor and the Civil Service Commission were transferred to the Equal Employment Opportunity Commission by Reorg. Plan No. 1 of 1978, § 1, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

MINIMUM WAGE STUDY COMMISSION; ESTABLISHMENT, PURPOSES, COMPOSITION, ETC.

Pub. L. 95-151, § 2(e), Nov. 1, 1977, 91 Stat. 1246, provided that:

"(1) There is established the Minimum Wage Study Commission (hereinafter in this subsection referred to as the 'Commission') which shall conduct a study of the Fair Labor Standards Act of 1938 [this chapter] and the social, political, and economic ramifications of the minimum wage, overtime, and other requirements of that Act. Such study shall include but not be limited to—

"(A) the beneficial effects of the minimum wage, including its effect in ameliorating poverty among working citizens;

"(B) the inflationary impact (if any) of increases in the minimum wage prescribed by that Act;

"(C) the effect (if any) such increases have on wages paid employees at a rate in excess of the rate prescribed by that Act;

"(D) the economic consequence (if any) of authorizing an automatic increase in the rate prescribed in that Act on the basis of an increase in a wage, price, or other index;

"(E) the employment and unemployment effects (if any) of providing a different minimum wage rate for youth, and the employment and unemployment effects (if any) on handicapped and aged individuals of an increase in such rate and of providing a different minimum wage rate for such individuals;

"(F) the effect (if any) of the full-time student certification program on employment and unemployment;

"(G) the employment and unemployment effects (if any) of the minimum wage;

"(H) the exemptions from the minimum wage and overtime requirements of that Act;

"(I) the relationship (if any) between the Federal minimum wage rates and public assistance programs, including the extent to which employees at such

rates are also eligible to receive food stamps and other public assistance;

"(J) the overall level of noncompliance with that Act; and

"(K) the demographic profile of minimum wage workers.

"(2) The Commission shall conduct a study concerning the extent to which the exemptions from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938 [this chapter] may apply to employees of conglomerates, and shall make a report, within one year after the date of the appointment of the members of the Commission of the results of such study. For the purposes of this paragraph a 'conglomerate' means an establishment (A) which controls, is controlled by, or is under common control with, another establishment the activities of which are not related for a common business purpose to the activities of the establishment employing such employees and (B) whose annual gross volume of sales made or business done, when combined with the annual gross volume of sales made or business done by each establishment which controls, is controlled by, or is under common control with, the establishment employing such employee, exceeds $100,000,000 (exclusive of excise taxes at the retail level which are separately stated). The report shall include an analysis of the effects of eliminating the exemptions from the minimum wage and overtime requirements of such Act that may currently apply to the employees of such conglomerates.

"(3) The Commission shall make a report of the results of the study conducted pursuant to paragraph (1) thirty-six months after the date of the appointment of the members of the Commission. The report shall include such recommendations for legislation as the Commission determines are appropriate. The Commission may make interim or additional reports which it determines are appropriate. Each report shall be made to the President and to the Congress. The Commission shall cease to exist thirty days after the submission of the report required by this paragraph.

"(4)(A) The Commission shall consist of eight members as follows:

"(i) Two members appointed by the Secretary of Labor.

"(ii) Two members appointed by the Secretary of Commerce.

"(iii) Two members appointed by the Secretary of Agriculture.

"(iv) Two members appointed by the Secretary of Health, Education, and Welfare.

The appointments authorized under this paragraph shall be made within 180 days after the date of enactment of this subsection [Nov. 1, 1977].

"(B) The Chairperson shall be selected by the members of the Commission. Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

"(C)(i) Except as provided in clause (ii), members of the Commission who are officers or employees of the Federal Government shall serve without compensation. Other members, while engaged in the activities of the Commission, shall be paid at a rate equal to the per diem equivalent of the annual rate payable for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code.

"(ii) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

"(5)(A) The Commission may prescribe such rules as may be necessary to carry out its duties under this subsection.

"(B) The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

"(C) Upon request of the Commission, the head of any Federal department or agency is authorized to detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties under this subsection.

"(D) The Department of Labor shall furnish such professional, technical, and research assistance as required by the Commission.

"(E) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request to carry out its duties under this subsection.

"(F) The Commission may secure directly from any department or agency of the United States such information as the Commission may require to carry out its duties under this subsection. Upon request of the Commission, the head of any such department or agency shall furnish such information to the Commission.

"(G) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

"(6)(A) The Chairperson may appoint an executive director of the Commission who shall perform such duties as the Chairperson may prescribe.

"(B) With approval of the Chairperson, the executive director may appoint and fix the pay of such clerical personnel as are necessary for the Commission to carry out its duties.

"(C) The executive director and staff shall be appointed without regard to the provisions of title 5, United States Code governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates but at rates not in excess of the annual rate payable for grade GS–18 of the General Schedule under section 5332 of such title.

"(D) The executive director, with the concurrence of the Chairperson, may obtain temporary and intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code."

§ 206. Minimum wage

(a) Employees engaged in commerce; home workers in Puerto Rico and Virgin Islands; employees in American Samoa; seamen on American vessels; agricultural employees

Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates:

(1) not less than $2.65 an hour during the year beginning January 1, 1978, not less than $2.90 an hour during the year beginning January 1, 1979, not less than $3.10 an hour during the year beginning January 1, 1980, and not less than $3.35 an hour after December 31, 1980, except as otherwise provided in this section;

[*See main edition for text of* (2) *to* (4)]

(5) if such employee is employed in agriculture, not less than the minimum wage rate in effect under paragraph (1) after December 31, 1977.

(b) Additional applicability to employees pursuant to subsequent amendatory provisions

Every employer shall pay to each of his employees (other than an employee to whom subsection (a)(5) of this section applies) who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this section by the amendments made to this chapter by the Fair Labor Standards Amendments of 1966; title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], or the Fair Labor Standards Amendments of 1974, wages at the following rate: Effective after December 31, 1977, not less than the minimum wage rate in effect under subsection (a)(1) of this section.

(c) Wage rates superseded by recommendation of special industry committee

(1) The rate or rates provided by subsection (a)(1) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order (A) heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 205 of this title, and (B) which prescribes a wage order rate which is less than the wage rate in effect under subsection (a)(1) of this section.

(2)(A) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is at least $2 an hour shall, except as provided in paragraph (3), be increased—

(i) effective January 1, 1978, by $0.25 an hour or by such greater amount as may be recommended by a special industry committee under section 208 of this title, and

(ii) effective January 1, 1979, and January 1 of each succeeding year, by $0.30 an hour or by such greater amount as may be so recommended by such a special industry committee.

(B) Each wage order rate under a wage order described in paragraph (1) which on December 31, 1977, is less than $2 an hour shall, except as provided in paragraph (3), be increased—

(i) effective January 1, 1978, by $0.20 an hour or by such greater amount as may be recommended by a special industry committee under section 208 of this title, and

(ii) effective January 1, 1979, and January 1 of each succeeding year—

(I) until such wage order rate is not less than $2.30 an hour, by $0.25 an hour or by such greater amount as may be so recommended by a special industry committee, and

(II) if such wage order rate is not less than $2.30 an hour, by $0.30 an hour or by such greater amount as may be so recommended by a special industry committee.

(C) In the case of any employee in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 205 of this title, to whom the rate or rates prescribed by subsection (a)(5) of this section would otherwise apply, and whose hourly wage is increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the applicable increases prescribed by subparagraph (A) or (B) shall be applied to the sum of the wage rate in effect under such wage order and the amount by which the employee's hourly wage is increased by the subsidy (or income supplement) above the wage rate in effect under such wage order.

(3) If the wage rate of an employee is to be increased under this subsection to a wage rate which equals or is greater than the wage rate under subsection (a)(1) of this section which, but for paragraph (1) of this subsection, would be applicable to such employee, this subsection shall be inapplicable to such employee and the applicable rate under subsection (a)(1) of this section shall apply to such employee.

(4) Each minimum wage rate prescribed by or under paragraph (2) shall be in effect unless such minimum wage rate has been superseded by a wage order (issued by the Secretary pursuant to the recommendation of a special industry committee convened under section 208 of this title) fixing a higher minimum wage rate.

[*See main edition for text of (d) to (f)*]

(As amended Nov. 1, 1977, Pub. L. 95–151, § 2(a)–(d)(2), 91 Stat. 1245, 1246.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95–151, § 2(a), substituted "not less than $2.65 an hour during the year beginning January 1, 1978, not less than $2.90 an hour during the year beginning January 1, 1979, not less than $3.10 an hour during the year beginning January 1, 1980, and not less than $3.35 an hour after December 1, 1980" for "not less than $2 an hour during the period ending December 31, 1974, not less than $2.10 an hour during the year beginning January 1, 1975, and not less than $2.30 an hour after December 31, 1975".

Subsec. (a)(5). Pub. L. 95–151, § 2(b), substituted provisions for a minimum wage rate of not less than the minimum wage rate in effect under par. (1) after Dec. 31, 1977, for provisions for a minimum wage rate of not less than $1.60 an hour during the period ending Dec. 31, 1974, $1.80 an hour during the year beginning Jan. 1, 1975, $2 an hour during the year beginning Jan. 1, 1976, $2.20 an hour during the year beginning Jan. 1, 1977, and $2.30 an hour after Dec. 31, 1977.

Subsec. (b). Pub. L. 95–151, § 2(c), substituted provisions for a minimum wage rate, effective after Dec. 31, 1977, of not less than the minimum wage rate in effect under subsec. (a)(1) of this section, for provisions for a minimum wage rate of not less than $1.90 an hour during the period ending Dec. 31, 1974, not less than $2 an hour during the year beginning Jan. 1, 1975, not less than $2.20 an hour during the year beginning Jan. 1, 1976, and not less than $2.30 an hour after Dec. 31, 1976.

Subsec. (c)(1). Pub. L. 95–151, § 2(d)(2)(A), added "(A)" preceding "heretofore" and cl. (B), and substituted "subsection (a)(1)" for "subsections (a) and (b)".

Subsec. (c)(2). Pub. L. 95–151, § 2(d)(1), added par. (2). Former par. (2), relating to applicability, etc., of wage rate orders effective on the effective date of the Fair Labor Standards Amendments of 1974, and effective on the first day of the second and each subsequent year after such date, was struck out.

Subsec. (c)(3). Pub. L. 95-151, § 2(d)(1), (2)(B), (C), redesignated former par. (5) as (3) and, as so redesignated, substituted references to subsec. (a)(1) of this section, for references to subsec. (a) or (b) of this section. Former par. (3), relating to appointment of a special industry committee for recommendations with respect to highest minimum wage rates for employees employed in Puerto Rico or the Virgin Islands subject to the amendments to this chapter by the Fair Labor Standards Amendments of 1974, was struck out.

Subsec. (c)(4). Pub. L. 95-151, § 2(d)(1), (2)(B), (D), redesignated former par. (6) as (4) and, as so redesignated, struck out "or (3)" following "(2)". Former par. (4), relating to wage rates of employees in Puerto Rico or the Virgin Islands subject to the former provisions of subsec. (c)(2)(A) or (3) of this section, was struck out.

Subsec. (c)(5), (6). Pub. L. 95-151, § 2(d)(2)(B), redesignated former pars. (5) and (6) as (3) and (4), respectively.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-151 effective on Jan. 1, 1978, see section 15(a) of Pub. L. 95-151, set out as an Effective Date of 1977 Amendment note under section 203 of this title.

TRANSFER OF FUNCTIONS

All functions relating to enforcement and administration of equal pay provisions vested by this section in the Secretary of Labor and the Administrator of the Wage and Hour Division of the Department of Labor were transferred to the Equal Employment Opportunity Commission by Reorg. Plan No. 1 of 1978, § 1, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

INAPPLICABILITY TO NORTHERN MARIANA ISLANDS

Pursuant to section 503(c) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands with the United States of America, as set forth in Pub. L. 94-241, Mar. 24, 1976, 90 Stat. 263, set out as a note under section 1681 of Title 48, Territories and Insular Possessions, this section is inapplicable to the Northern Mariana Islands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 203, 205, 207, 208, 213, 214, 215, 216, 218, 824, 826, 915, 917, 995, of this title; title 5 sections 2302, 5343, 5349, 7702; title 7 sections 2015, 2026; title 15 section 1673; title 18 section 3575; title 21 section 849; title 26 section 3121; title 38 section 1685; title 41 section 351; title 42 sections 300e-9, 431, 2000e-2, 2930b, 2951, 3056, 8009.

§ 207. Maximum hours

[*See main edition for text of (a) to (j)*]

(k) Employment by public agency engaged in fire protection or law enforcement activities

No public agency shall be deemed to have violated subsection (a) of this section with respect to the employment of any employee in fire protection activities or any employee in law enforcement activities (including security personnel in correctional institutions) if—

(1) in a work period of 28 consecutive days the employee receives for tours of duty which in the aggregate exceed the lesser of (A) 216 hours, or (B) the average number of hours (as determined by the Secretary pursuant to section 6(c)(3) of the Fair Labor Standards Amendments of 1974) in tours of duty of employees engaged in such activities in work periods of 28 consecutive days in calendar year 1975; or

(2) in the case of such an employee to whom a work period of at least 7 but less than 28 days applies, in his work period the employee receives for tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in his work period as 216 hours (or if lower, the number of hours referred to in clause (B) of paragraph (1)) bears to 28 days,

compensation at a rate not less than one and one-half times the regular rate at which he is employed.

[*See main edition for text of (l) to (n)*]

(As amended Apr. 8, 1974, Pub. L. 93-259, § 6(c)(1)(D), 88 Stat. 61.)

REFERENCES IN TEXT

Section 6(c)(3) of the Fair Labor Standards Amendments of 1974, referred to in subsec. (k)(1), is Pub. L. 93-259, § 6(c)(3), Apr. 8, 1974, 88 Stat. 61, which is set out as a note under section 213 of this title.

AMENDMENTS

1974—Subsec. (k). Pub. L. 93-259, § 6(c)(1)(D), substituted in par. (1) "exceed the lesser of (A) 216 hours, or (B) the average number of hours (as determined by the Secretary pursuant to section 6(c)(3) of the Fair Labor Standards Amendments of 1974) in tours of duty of employees engaged in such activities in work periods of 28 consecutive days in calendar year 1975" for "exceed 216 hours" and inserted in par. (2) "(or if lower, the number of hours referred to in clause (B) of paragraph (1))".

EFFECTIVE DATE OF 1974 AMENDMENT

Section 6(c)(1) of Pub. L. 93-259 provided in part that amendment of subsec. (k) of this section by section 6(c)(1)(D) of Pub. L. 93-259 shall be effective Jan. 1, 1978.

§ 208. Wage rates in Puerto Rico and the Virgin Islands

(a) Congressional policy; recommendation of wage rate by industry committee

The policy of this chapter with respect to industries or enterprises in Puerto Rico and the Virgin Islands engaged in commerce or in the production of goods for commerce is to reach as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage rate which would apply in each such industry under paragraph (1) or (5) of section 206(a) of this title but for section 206(c) of this title. The Secretary shall, from time to time, convene an industry committee or committees, appointed pursuant to section 205 of this title, and any such industry committee—

(1) shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico, in the Virgin Islands, or in both places and who but for section 206(c) of this title would be subject to the minimum wage requirements of section 206(a)(1) of this title, and

(2) may, from time to time, recommend increases in the incremental increases authorized by section 206(c)(2) of this title.

The Administrator shall from time to time convene an industry committee or committees, appointed pursuant to section 205 of this title, and any such industry committee shall from time to time recommend the minimum rate or rates of wages to be paid under section 206 of this title by employers in Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands, engaged in commerce or in the production of goods for commerce or in any enterprise engaged in commerce or in the production of goods for commerce in any such industry or classifications therein. Minimum rates of wages established in accordance with this section which are not equal to the otherwise applicable minimum wage rate in effect under paragraph (1) or (5) of section 206(a) of this title shall be reviewed by such a Committee once during each biennial period, beginning with the biennial period commencing July 1, 1958, except that the Secretary, in his discretion, may order an additional review during any such biennial period.

[*See main edition for text of* (b) *to* (f)]

(As amended Nov. 1, 1977, Pub. L. 95-151, § 2(d)(3), 91 Stat. 1246.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-151 added provisions relating to appointment of industry committees by the Secretary and functions of such industry committees.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-151 effective on Jan. 1, 1978, see section 15(a) of Pub. L. 95-151, set out as an Effective Date of 1977 Amendment note under section 203 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 205, 206, 210 of this title.

§ 209. Attendance of witnesses

TRANSFER OF FUNCTIONS

All functions relating to enforcement and administration of equal pay provisions vested by this section in the Secretary of Labor and the Administration of the Wage and Hour Division of the Department of Labor were transferred to the Equal Employment Opportunity Commission by Reorg. Plan No. 1 of 1978, § 1, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

§ 211. Collection of data

TRANSFER OF FUNCTIONS

All functions relating to enforcement and administration of equal pay provisions vested by subsecs. (a), (b), and (c) of this section in the Secretary of Labor and the Administrator of the Wage and Hour Division of the Department of Labor were transferred to the Equal Employment Opportunity Commission by Reorg. Plan No. 1 of 1978, § 1, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

§ 213. Exemptions

(a) Minimum wage and maximum hour requirements

The provisions of sections 206 (except subsection (d) in the case of paragraph (1) of this subsection) and section 207 of this title shall not apply with respect to—

[*See main edition for text of* (1)]

(2) any employee employed by any retail or service establishment (except an establishment or employee engaged in laundering, cleaning, or repairing clothing or fabrics or an establishment engaged in the operation of a hospital, institution, or school described in section 203(s)(5) of this title), if more than 50 per centum of such establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, and such establishment is not in an enterprise described in section 203(s) of this title. A "retail or service establishment" shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or

(3) any employee employed by an establishment which is an amusement or recreational establishment organized camp, or religious or non-profit educational conference center, if (A) it does not operate for more than seven months in any calendar year, or (B) during the preceding calendar year, its average receipts for any six months of such year were not more than 33⅓ per centum of its average receipts for the other six months of such year, except that the exemption from sections 206 and 207 of this title provided by this paragraph does not apply with respect to any employee of a private entity engaged in providing services or facilities (other than, in the case of the exemption from section 206 of this title, a private entity engaged in providing services and facilities directly related to skiing) in a national park or a national forest, or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture; or

[*See main edition for text of* (4) *to* (15)]

(b) Maximum hour requirements

The provisions of section 207 of this title shall not apply with respect to—

[*See main edition for text of* (1) *to* (7)]

(8) Repealed. Pub. L. 95-151, § 14(b), Nov. 1, 1977, 91 Stat. 1252

[*See main edition for text of* (9) *to* (21)]

(22) Repealed. Pub. L. 95-151, § 5, Nov. 1, 1977, 91 Stat. 1249

[*See main edition for text of* (23) *and* (24)]

(25) Repealed. Pub. L. 95-151, § 6(a), Nov. 1, 1977, 91 Stat. 1249

(26) Repealed. Pub. L. 95-151, § 7(a), Nov. 1, 1977, 91 Stat. 1250

[*See main edition for text of* (27)]

(28) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight; or

(29) any employee of an amusement or recreational establishment located in a national park or national forest or on land in the National Wildlife Refuge System if such employee (A) is an employee of a private entity engaged in providing services or facilities in a national park or national forest, or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture, and (B) receives compensation for employment in excess of fifty-six hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed.

(c) Child labor requirements

(1) Except as provided in paragraph (2) or (4), the provisions of section 212 of this title relating to child labor shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee—

[*See main edition for text of* (A) *to* (C), (2) *and* (3)]

(4)(A) An employer or group of employers may apply to the Secretary for a waiver of the application of section 212 of this title to the employment for not more than eight weeks in any calendar year of individuals who are less than twelve years of age, but not less than ten years of age, as hand harvest laborers in an agricultural operation which has been, and is customarily and generally recognized as being, paid on a piece rate basis in the region in which such individuals would be employed. The Secretary may not grant such a waiver unless he finds, based on objective data submitted by the applicant, that—

(i) the crop to be harvested is one with a particularly short harvesting season and the application of section 212 of this title would cause severe economic disruption in the industry of the employer or group of employers applying for the waiver;

(ii) the employment of the individuals to whom the waiver would apply would not be deleterious to their health or well-being;

(iii) the level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of the individuals to whom the waiver would apply;

(iv) individuals age twelve and above are not available for such employment; and

(v) the industry of such employer or group of employers has traditionally and substantially employed individuals under twelve years of age without displacing substantial job opportunities for individuals over sixteen years of age.

(B) Any waiver granted by the Secretary under subparagraph (A) shall require that—

(i) the individuals employed under such waiver be employed outside of school hours for the school district where they are living while so employed;

(ii) such individuals while so employed commute daily from their permanent residence to the farm on which they are so employed; and

(iii) such individuals be employed under such waiver (I) for not more than eight weeks between June 1 and October 15 of any calendar year, and (II) in accordance with such other terms and conditions as the Secretary shall prescribe for such individuals' protection.

[*See main edition for text of* (d) *and* (e)]

(f) Employment in foreign countries and certain United States territories

The provisions of sections 206, 207, 211, and 212 of this title shall not apply with respect to any employee whose services during the workweek are performed in a workplace within a foreign country or within territory under the jurisdiction of the United States other than the following: a State of the United States; the District of Columbia; Puerto Rico; the Virgin Islands; outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (ch. 345, 67 Stat. 462) [43 U.S.C. 1331 et seq.]; American Samoa; Guam; Wake Island; Eniwetok Atoll; Kwajalein Atoll; and Johnston Island.

[*See main edition for text of* (g) *and* (h)]

(i) Cotton ginning

The provisions of section 207 of this title shall not apply for a period or periods of not more than fourteen workweeks in the aggregate in any period of fifty-two consecutive weeks to any employee who—

(1) is engaged in the ginning of cotton for market in any place of employment located in a county where cotton is grown in commercial quantities; and

(2) receives for any such employment during such workweeks—

(A) in excess of ten hours in any workday, and

(B) in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed. No week included in any fifty-two week period for purposes of the preceding sentence may be included for such purposes in any other fifty-two week period.

(j) Processing of sugar beets, sugar beet molasses, or sugar cane

The provisions of section 207 of this title shall not apply for a period or periods of not more than fourteen workweeks in the aggregate in any period of fifty-two consecutive weeks to any employee who—

(1) is engaged in the processing of sugar beets, sugar beet molasses, or sugar cane into sugar (other than refined sugar) or syrup; and

(2) receives for any such employment during such workweeks—

(A) in excess of ten hours in any workday, and

(B) in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed. No week included in any fifty-two week period for purposes of the preceding sentence may be included for such purposes in any other fifty-two week period.

(As amended Nov. 1, 1977, Pub. L. 95–151, §§ 4–8, 9(d), 11, 14, 91 Stat. 1249, 1250–1252; Sept. 27, 1979, Pub. L. 96–70, title I, § 1225(a), 93 Stat. 468.)

CODIFICATION

Section 304 of title 49, referred to in subsec. (b)(1), was repealed (except with respect to establishment of qualifications and maximum hours of service) by Pub. L. 95–473, section 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation.

Part I of the Interstate Commerce Act, referred to in subsec. (b)(2), which was classified to chapter 1 (§ 1 et seq.) of Title 49, was repealed by Pub. L. 95–473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. Part I is now covered by subchapter I (§ 10501 et seq.) of chapter 105 of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

AMENDMENTS

1979—Subsec. (f). Pub. L. 96–70 struck out "; and the Canal Zone" following "Johnston Island".

1977—Subsec. (a)(2). Pub. L. 95–151, § 9(d), substituted "section 203(s)(5)" for "section 203(s)(4)".

Subsec. (a)(3). Pub. L. 95–151, §§ 4(a), 11, added "organized camp, or religious or non-profit educational conference center," following "recreational establishment,", and added provisions relating to applicability of exemption from sections 206 and 207 of this title authorized by this paragraph for private employees in national parks, etc.

Subsec. (b)(8). Pub. L. 95–151, § 14(a), substituted "forty-four" for "forty-six".

Pub. L. 95–151, § 14(b), struck out par. (8), which related to exemption of hotel, motel, and restaurant employees, effective Jan. 1, 1979.

Subsec. (b)(22). Pub. L. 95–151, § 5, struck out par. (22) which related to exemption of shade-grown tobacco employees.

Subsec. (b)(25). Pub. L. 95–151, § 6(a), struck out par. (25) which related to exemption of cotton ginning employees. See subsec. (i) of this section.

Subsec. (b)(26). Pub. L. 95–151, § 7(a), struck out par. (26) which related to exemption of sugar employees. See subsec. (j) of this section.

Subsec. (b)(29). Pub. L. 95–151, § 4(b), added par. (29).

Subsec. (c). Pub. L. 95–151, § 8, in par. (1) added reference to par. (4), and added par. (4).

Subsec. (i). Pub. L. 95–151, § 6(b), added subsec. (i).

Subsec. (j). Pub. L. 95–151, § 7(b), added subsec. (j).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsecs. (a)(2), (3), relating to camps, etc., and (c)(1) and (4) by Pub. L. 95–151 effective on Nov. 1, 1977, see section 15(b) of Pub. L. 95–151, set out as an Effective Date of 1977 Amendment note under section 203 of this title.

Amendment of subsecs. (a)(3), relating to private employees in national parks, etc., (b)(22), (25), (26), (29), (i) and (j) by Pub. L. 95–151 effective on Jan. 1, 1978, see section 15(a) of Pub. L. 95–151, set out as an Effective Date of 1977 Amendment note under section 203 of this title.

Section 14(a) of Pub. L. 95–151 provided in part that the amendment of subsec. (b)(8) of this section by section 14(a) of Pub. L. 95–151 is effective Jan. 1, 1978.

Section 14(b) of Pub. L. 95–151 provided in part that the repeal of subsec. (b)(8) of this section by section 14(b) of Pub. L. 95–151 is effective Jan. 1, 1979.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 203, 206, 216, 218, 795 of this title; title 5 sections 5343, 5349; title 42 sections 300e–9, 3056, 8009.

§ 214. Employment under special certificates

[*See main edition for text of* (a)]

(b) Students

[*See main edition for text of* (1) *to* (3)]

(4) [*See main edition for text of* (A)]

(B) If the issuance of a special certificate under paragraph (1) or (2) for an employer will cause the number of students employed by such employer under special certificates issued under this subsection to exceed six, the Secretary may not issue such a special certificate for the employment of a student by such employer unless the Secretary finds employment of such student will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under special certificates issued under this subsection. If the issuance of a special certificate under paragraph (1) or (2) for an employer will not cause the number of students employed by such employer under special certificates issued under this subsection to exceed six—

[*See main edition for text of* (i) *and* (ii)]

The requirement of this subparagraph shall not apply in the case of the issuance of special certificates under paragraph (3) for the employment of full-time students by institutions of higher education; except that if the Secretary determines that an institution of higher education is employing students under certificates issued under paragraph (3) but in violation of the requirements of that paragraph or of regulations issued thereunder, the requirements of this subparagraph shall apply with respect to the issuance of special certificates under paragraph (3) for the employment of students by such institution.

[*See main edition for text of* (C)]

(D) To minimize paperwork for, and to encourage, small businesses to employ students under special certificates issued under paragraphs (1) and (2), the Secretary shall, by regulation or order, prescribe a simplified application form to be used by employers in applying for such a certificate for the employment of not more than six full-time students. Such an application shall require only—

(i) a listing of the name, address, and business of the applicant employer,

(ii) a listing of the date the applicant began business, and

(iii) the certification that the employment of such full-time students will not reduce the full-time employment opportunities of persons other than persons employed under special certificates.

[*See main edition for text of* (c) *and* (d)]

(As amended Nov. 1, 1977, Pub. L. 95-151, §§ 12, 13, 91 Stat. 1252.)

AMENDMENTS

1977—Subsec. (b)(4)(B). Pub. L. 95-151, § 12(a), substituted "six" for "four" wherever appearing therein. Subsec. (b)(4)(D). Pub. L. 95-151, § 13, added subpar. (D).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-151 effective on Nov. 1, 1977, see section 15(b) of Pub. L. 95-151, set out as an Effective Date of 1977 Amendment note under section 203 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 215, 795, 896, 917 of this title.

§ 216. Penalties

[*See main edition for text of* (a)]

(b) Damages; right of action; attorney's fees and costs; termination of right of action

Any employer who violates the provisions of section 206 or section 207 of this title shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, or their unpaid overtime compensation, as the case may be, and in an additional equal amount as liquidated damages. Any employer who violates the provisions of section 215(a)(3) of this title shall be liable for such legal or equitable relief as may be appropriate to effectuate the purposes of section 215(a)(3) of this title, including without limitation employment, reinstatement, promotion, and the payment of wages lost and an additional equal amount as liquidated damages. An action to recover the liability prescribed in either of the preceding sentences may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action. The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 217 of this title in which (1) restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 206 or section 207 of this title by an employer liable therefor under the provisions of this subsection or (2) legal or equitable relief is sought as a result of alleged violations of section 215(a)(3) of this title.

(c) Payment of wages and compensation; waiver of claims; actions by the Secretary; limitation of actions

The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under section 206 or section 207 of this title, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of unpaid minimum wages or overtime compensation and an equal amount as liquidated damages. The right provided by subsection (b) of this section to bring an action by or on behalf of any employee to recover the liability specified in the first sentence of such subsection and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary in an action under this subsection in which a recovery is sought of unpaid minimum wages or unpaid overtime compensation under sections 206 and 207 of this title or liquidated or other damages provided by this subsection owing to such employee by an employer liable under the provisions of subsection (b) of this section, unless such action is dismissed without prejudice on motion of the Secretary. Any sums thus recovered by the Secretary of Labor on behalf of an employee pursuant to this subsection shall be held in a special deposit account and shall be paid, on order of the Secretary of Labor, directly to the employee or employees affected. Any such sums not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts. In determining when an action is commenced by the Secretary of Labor under this subsection for the purposes of the statutes of limitations provided in section 255(a) of this title, it shall be considered to be commenced in the case of any individual claimant on the date when the complaint is filed if he is specifically named as a party plaintiff in the complaint, or if his name did not so appear, on the subsequent date on which his name is added as a party plaintiff in such action.

[*See main edition for text of* (d) *and* (e)]

(As amended Nov. 1, 1977, Pub. L. 95-151, § 10, 91 Stat. 1252.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-151, § 10(a), (b), added provisions relating to violations of section 215(a)(3) of

this title by employers, "(1)" following "section 217 of this title in which", and cl. (2), and substituted "An action to recover the liability prescribed in either of the preceding sentences" for "Action to recover such liability".

Subsec. (c). Pub. L. 95-151, § 10(c), added "to recover the liability specified in the first sentence of such subsection" following "an action by or on behalf of any employee".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-151 effective on Jan. 1, 1978, see section 15(a) of Pub. L. 95-151, set out as an Effective Date of 1977 Amendment note under section 203 of this title.

TRANSFER OF FUNCTIONS

All functions relating to enforcement and administration of equal pay provisions vested by subsecs. (b) and (c) of this section in the Secretary of Labor were transferred to the Equal Employment Opportunity Commission by Reorg. Plan No. 1 of 1978, § 1, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 255, 260, 626 of this title; title 5 sections 7702, 7703.

§ 217. Injunction proceedings

TRANSFER OF FUNCTIONS

All functions relating to enforcement and administration of equal pay provisions vested by this section in the Secretary of Labor were transferred to the Equal Employment Opportunity Commission by Reorg. Plan No. 1 of 1978, § 1, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

CHAPTER 9—PORTAL-TO-PORTAL PAY

§ 259. Reliance in future on administrative rulings, etc.

TRANSFER OF FUNCTIONS

All functions relating to enforcement and administration of equal pay provisions vested by subsec. (b)(1) of this section in the Administrator of the Wage and Hour Division of the Department of Labor were transferred to the Equal Employment Opportunity Commission by Reorg. Plan No. 1 of 1978, § 1, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

CHAPTER 11—LABOR-MANAGEMENT REPORTING AND DISCLOSURE PROCEDURE

SUBCHAPTER I—GENERAL PROVISIONS

§ 402. Definitions

For the purposes of this chapter—

[See main edition for text of (a) to (c)]

(d) "Person" includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11, or receivers.

[See main edition for text of (e) to (r)]

(As amended Pub. L. 95-598, title III, § 320, Nov. 6, 1978, 92 Stat. 2678.)

AMENDMENTS

1978—Subsec. (d). Pub. L. 95-598 substituted "cases under title 11" for "bankruptcy".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

SUBCHAPTER IV—TRUSTEESHIPS

§ 465. Omitted

CODIFICATION

Section, Pub. L. 86-257, title III, § 305, Sept. 14, 1959, 73 Stat. 532, which required submission of a report to Congress by the Secretary of Labor upon the operation of this subchapter at the expiration of three years from Sept. 14, 1959, was omitted from the Code as executed.

CHAPTER 12—DEPARTMENT OF LABOR

Sec.
557a. Mine Safety and Health Administration [New].

§ 557a. Mine Safety and Health Administration

There is established in the Department of Labor a Mine Safety and Health Administration to be headed by an Assistant Secretary of Labor for Mine Safety and Health appointed by the President, by and with the advice and consent of the Senate. The Secretary, acting through the Assistant Secretary for Mine Safety and Health, shall have authority to appoint, subject to the civil service laws, such officers and employees as he may deem necessary for the administration of this Act, and to prescribe powers, duties, and responsibilities of all officers and employees engaged in the administration of this Act. The Secretary is authorized and directed, except as specifically provided otherwise to carry out his functions under the Federal Mine Safety and Health Act of 1977 [30 U.S.C. 801 et seq.] through the Mine Safety and Health Administration.

(Pub. L. 95-164, title III, § 302(a), Nov. 9, 1977, 91 Stat. 1319.)

REFERENCES IN TEXT

The civil service laws, referred to in text, are set out in Title 5, Government Organization and Employees. See particularly section 3301 et seq. of that title.

This Act, referred to in text, means Pub. L. 95-164, Nov. 9, 1977, 91 Stat. 1290, known as the Federal Mine Safety and Health Amendments of 1977, which enacted this section, sections 822 to 825 and 961 of Title 30, Mineral Lands and Mining, amended sections 5314 and 5315 of Title 5, Government Organization and Employees, and sections 801 to 804, 811 to 821, 842, 861, 878, 951 to 955, 958 and 959 of Title 30, repealed sections 721 to 740 of Title 30 and section 1456a of Title 43, Public Lands, and enacted provisions set out as notes under sections 801 and 954 of Title 30 and section 11 of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 801 of Title 30 and Tables.

The Federal Mine Safety and Health Act of 1977, referred to in text, is Pub. L. 91-173, Dec. 30, 1969, 83

Stat. 742, as amended by Pub. L. 95-164, title I, § 101, Nov. 9, 1977, 91 Stat. 1290, which is classified principally to chapter 22 (§ 801 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 30 and Tables.

EFFECTIVE DATE

Section effective 120 days after Nov. 9, 1977, see section 307 of Pub. L. 95-164, set out as an Effective Date of 1977 Amendment note under section 801 of Title 30, Mineral Lands and Mining.

CROSS REFERENCES

Federal Mine Safety and Health Review Commission, see section 823 of Title 30, Mineral Lands and Mining.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 952 of this title.

CHAPTER 14—AGE DISCRIMINATION IN EMPLOYMENT

§ 621. Congressional statement of findings and purpose

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-256, § 1, Apr. 6, 1978, 92 Stat. 189, provided that: "This Act [amending sections 623, 624, 626, 631, 633a, and 634 of this title and sections 8335 and 8339 of Title 5, Government Organization and Employees, repealing section 3322 of Title 5, and enacting provisions set out as notes under sections 623, 626, 631, and 633a of this title] may be cited as the 'Age Discrimination in Employment Act Amendments of 1978'."

TRANSFER OF FUNCTIONS

All functions vested by this section in the Secretary of Labor or the Civil Service Commission were transferred to the Equal Employment Opportunity Commission by Reorg. Plan No. 1 of 1978, § 2, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

§ 622. Education and research program; recommendation to Congress

[*See main edition for text of* (a)]

(b) Omitted

[*See main edition for credits*]

CODIFICATION

Subsec. (b) of this section, which required the Secretary to recommend to Congress any measures he deemed desirable to change the lower or upper age limits set forth in section 631 of this title not later than six months after the effective date of this chapter, was omitted from the Code as executed.

§ 623. Prohibition of age discrimination

[*See main edition for text of* (a) *to* (e)]

(f) Lawful practices; age an occupational qualification; other reasonable factors; seniority system; employee benefit plans; discharge or discipline for good cause

It shall not be unlawful for an employer, employment agency, or labor organization—

[*See main edition for text of* (1)]

(2) to observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this chapter, except that no such employee benefit plan shall excuse the failure to hire any individual, and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual specified by section 631(a) of this title because of the age of such individual; or

(3) to discharge or otherwise discipline an individual for good cause.

(As amended Pub. L. 95-256, § 2(a), Apr. 6, 1978, 92 Stat. 189.)

AMENDMENTS

1978—Subsec. (f)(2). Pub. L. 95-256 provided that no seniority system or employee benefit plan require or permit the involuntary retirement of any individual specified by section 631(a) of this title because of the age of the individual.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 2(b) of Pub. L. 95-256 provided that: "The amendment made by subsection (a) of this section [amending subsec. (f)(2) of this section] shall take effect on the date of enactment of this Act, [Apr. 6, 1978], except that, in the case of employees covered by a collective bargaining agreement which is in effect on September 1, 1977, which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 [section 206(d)(4) of this title]), and which would otherwise be prohibited by the amendment made by section 3(a) of this Act [amending section 631 of this title], the amendment made by subsection (a) of this section [amending subsec. (f)(2) of this section] shall take effect upon the termination of such agreement or on January 1, 1980, whichever occurs first."

TRANSFER OF FUNCTIONS

All functions vested by this section in the Secretary of Labor or the Civil Service Commission were transferred to the Equal Employment Opportunity Commission by Reorg. Plan No. 1 of 1978, § 2, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

§ 624. Study by Secretary of Labor; reports to President and Congress; scope of study; implementation of study; transmittal date of reports

(a)(1) The Secretary of Labor is directed to undertake an appropriate study of institutional and other arrangements giving rise to involuntary retirement, and report his findings and any appropriate legislative recommendations to the President and to the Congress. Such study shall include—

(A) an examination of the effect of the amendment made by section 3(a) of the Age Discrimination in Employment Act Amendments of 1978 in raising the upper age limitation established by section 631(a) of this title to 70 years of age;

(B) a determination of the feasibility of eliminating such limitation;

(C) a determination of the feasibility of raising such limitation above 70 years of age; and

(D) an examination of the effect of the exemption contained in section 631(c) of this title, relating to certain executive employees, and the exemption contained in section 631(d) of this title, relating to tenured teaching personnel.

(2) The Secretary may undertake the study required by paragraph (1) of this subsection directly or by contract or other arrangement.

(b) The report required by subsection (a) of this section shall be transmitted to the President and to the Congress as an interim report not later than January 1, 1981, and in final form not later than January 1, 1982.

(As amended Pub. L. 95-256, § 6, Apr. 6, 1978, 92 Stat. 192.)

REFERENCES IN TEXT

Section 3(a) of the Age Discrimination in Employment Act Amendments of 1978, referred to in subsec. (a)(1)(A), is section 3(a) of Pub. L. 95-256, Apr. 6, 1978, 92 Stat. 189, which amended section 631 of this title.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-256, § 6(a), designated existing provisions as par. (1) and, as so designated, added cls. (A) to (D) and added par. (2).

Subsec. (b). Pub. L. 95-256, § 6(b), added subsec. (b).

§ 625. Administration

TRANSFER OF FUNCTIONS

All functions relating to age discrimination administration and enforcement vested by this section in the Secretary of Labor or the Civil Service Commission were transferred to the Equal Employment Opportunity Commission by Reorg. Plan No. 1 of 1978, § 2, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

§ 626. Recordkeeping, investigation, and enforcement

(a) Attendance of witnesses; investigations, inspections, records, and homework regulations

The Commission shall have the power to make investigations and require the keeping of records necessary or appropriate for the administration of this chapter in accordance with the powers and procedures provided in sections 209 and 211 of this title.

[*See main edition for text of* (b)]

(c) Civil actions; persons aggrieved; jurisdiction; judicial relief; termination of individual action upon commencement of action by Secretary; jury trial

(1) Any person aggrieved may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this chapter: *Provided*, That the right of any person to bring such action shall terminate upon the commencement of an action by the Commission to enforce the right of such employee under this chapter.

(2) In an action brought under paragraph (1), a person shall be entitled to a trial by jury of any issue of fact in any such action for recovery of amounts owing as a result of a violation of this chapter, regardless of whether equitable relief is sought by any party in such action.

(d) Filing of charge with Commission; timeliness; conciliation, conference, and persuasion

No civil action may be commenced by an individual under this section until 60 days after a charge alleging unlawful discrimination has been filed with the Commission. Such a charge shall be filed—

(1) within 180 days after the alleged unlawful practice occurred; or

(2) in a case to which section 633(b) of this title applies, within 300 days after the alleged unlawful practice occurred, or within 30 days after receipt by the individual of notice of termination of proceedings under State law, whichever is earlier.

Upon receiving such a charge, the Commission shall promptly notify all persons named in such charge as prospective defendants in the action and shall promptly seek to eliminate any alleged unlawful practice by informal methods of conciliation, conference, and persuasion.

(e) Statute of limitations; reliance in future on administrative ruling, etc.; tolling

(1) Sections 255 and 259 of this title shall apply to actions under this chapter.

(2) For the period during which the Commission is attempting to effect voluntary compliance with requirements of this chapter through informal methods of conciliation, conference, and persuasion pursuant to subsection (b) of this section, the statute of limitations as provided in section 255 of this title shall be tolled, but in no event for a period in excess of one year.

(As amended Pub. L. 95-256, § 4(a), (b)(1), (c)(1), Apr. 6, 1978, 92 Stat. 190, 191; 1978 Reorg. Plan No. 1, § 2, eff. Jan. 1, 1979, 43 F.R. 19807, 92 Stat. 3781.

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-256, § 4(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (d). Pub. L. 95-256, § 4(b)(1), substituted references to the filing of a charge with the Secretary alleging unlawful discrimination for references to the filing with the Secretary of notice of intent to sue.

Subsec. (e). Pub. L. 95-256, § 4(c)(1), designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 4(b)(2) of Pub. L. 95-256 provided that: "The amendment made by paragraph (1) of this subsection [amending subsec. (d) of this section] shall take effect with respect to civil actions brought after the date of enactment of this Act [Apr. 6, 1978]."

Section 4(c)(2) of Pub. L. 95-256 provided that: "The amendment made by paragraph (1) of this subsection [enacting subsec. (e)(2) of this section] shall take effect with respect to conciliations commenced by the Secretary of Labor after the date of enactment of this Act [Apr. 6, 1978]."

TRANSFER OF FUNCTIONS

"Commission", meaning the Equal Employment Opportunity Commission was substituted for "Secretary", meaning the Secretary of Labor pursuant to Reorg. Plan No. 1 of 1978, § 2, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, which transferred all functions vested by this section in the Secretary of Labor to the Equal Employment Opportunity Commission, effective Jan. 1, 1979, as provided by section

1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

§§ 627 to 630

TRANSFER OF FUNCTIONS

All functions vested by these sections in the Secretary of Labor or the Civil Service Commission were transferred to the Equal Employment Opportunity Commission by Reorg. Plan No. 1 of 1978, § 2, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

§ 631. Age limits

(a) Individuals at least 40 but less than 70 years of age

The prohibitions in this chapter shall be limited to individuals who are at least 40 years of age but less than 70 years of age.

(b) Employees or applicants for employment in Federal Government

In the case of any personnel action affecting employees or applicants for employment which is subject to the provisions of section 633a of this title, the prohibitions established in section 633a of this title shall be limited to individuals who are at least 40 years of age.

(c) Bona fide executives or high policymakers

(1) Nothing in this chapter shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age but not 70 years of age, and who, for the 2-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least $27,000.

(2) In applying the retirement benefit test of paragraph (1) of this subsection, if any such retirement benefit is in a form other than a straight life annuity (with no ancillary benefits), or if employees contribute to any such plan or make rollover contributions, such benefit shall be adjusted in accordance with regulations prescribed by the Commission, after consultation with the Secretary of the Treasury, so that the benefit is the equivalent of a straight life annuity (with no ancillary benefits) under a plan to which employees do not contribute and under which no rollover contributions are made.

(d) Employees serving under contracts of unlimited tenure at institutions of higher education

Nothing in this chapter shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age but not 70 years of age, and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education (as defined by section 1141(a) of title 20).

(As amended Pub. L. 95-256, § 3(a), Apr. 6, 1978, 92 Stat. 189; 1978 Reorg. Plan No. 1, § 2, eff. Jan. 1, 1979, 43 F.R. 19807, 92 Stat. 3781.)

REPEAL OF SUBSEC. (d)

Section 3(b)(3) of Pub. L. 95-256 provided that subsec. (d) of this section is repealed on July 1, 1982.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-256 designated existing provisions as subsec. (a) and, in subsec. (a) as so designated, substituted "40 years of age but less than 70 years of age" for "forty years of age but less than sixty-five years of age".

Subsecs. (b) to (d). Pub. L. 95-256 added subsecs. (b) to (d).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 3(b)(1), (2) of Pub. L. 95-256 provided that:

"(1) Sections 12(a), 12(c), and 12(d) of the Age Discrimination in Employment Act of 1967, as amended by subsection (a) of this section [subsecs. (a), (c), and (d) of this section] shall take effect on January 1, 1979.

"(2) Section 12(b) of such Act, as amended by subsection (a) of this section [subsec. (b) of this section], shall take effect on September 30, 1978."

TRANSFER OF FUNCTIONS

"Commission", meaning Equal Employment Opportunity Commission was substituted for "Secretary", meaning the Secretary of Labor pursuant to Reorg. Plan No. 1 of 1978, § 2, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, which transferred all functions vested by this section in the Secretary of Labor to the Equal Employment Opportunity Commission, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 622, 623, 624, 633a of this title; title 5 sections 2302, 7702.

§§ 632, 633

TRANSFER OF FUNCTIONS

All functions vested by these sections in the Secretary of Labor or the Civil Service Commission were transferred to the Equal Employment Opportunity Commission by Reorg. Plan No. 1 of 1978, § 2, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

§ 633a. Nondiscrimination on account of age in Federal Government employment

(a) Federal agencies affected

All personnel actions affecting employees or applicants for employment who are at least 40 years of age (except personnel actions with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, in executive agencies as defined in section 105 of title 5 (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units in the government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

(b) Enforcement by Equal Opportunity Employment Commission and by Librarian of Congress in the Library of Congress; remedies; rules, regulations, orders, and instructions of Commission: compliance by Federal agencies; powers and duties of Commission; notification of final action on complaint of discrimination; exemptions: bona fide occupational qualification

Except as otherwise provided in this subsection, the Equal Opportunity Employment Commission is authorized to enforce the provisions of subsection (a) of this section through appropriate remedies, including reinstatement or hiring of employees with or without backpay, as will effectuate the policies of this section. The Equal Opportunity Employment Commission shall issue such rules, regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Equal Opportunity Employment Commission shall—

[*See main edition for text of (1) to (3)*]

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions of the Equal Employment Opportunity Commission which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Equal Employment Opportunity Commission shall be exercised by the Librarian of Congress.

[*See main edition for text of (c) to (e)*]

(f) Applicability of statutory provisions to personnel action of Federal departments, etc.

Any personnel action of any department, agency, or other entity referred to in subsection (a) of this section shall not be subject to, or affected by, any provision of this chapter, other than the provisions of section 631(b) of this title and the provisions of this section.

(g) Study and report to President and Congress by Equal Employment Opportunity Commission; scope

(1) The Equal Employment Opportunity Commission shall undertake a study relating to the effects of the amendments made to this section by the Age Discrimination in Employment Act Amendments of 1978, and the effects of section 631(b) of this title.

(2) The Equal Employment Opportunity Commission shall transmit a report to the President and to the Congress containing the findings of the Commission resulting from the study of the Commission under paragraph (1) of this subsection. Such report shall be transmitted no later than January 1, 1980.

(As amended Pub. L. 95-256, § 5(a), (e), Apr. 6, 1978, 92 Stat. 191; 1978 Reorg. Plan No. 1, eff. Jan. 1, 1979, § 2, 43 F.R. 19807, 92 Stat. 3781.)

REFERENCES IN TEXT

The amendments made to this section by the Age Discrimination in Employment Act Amendments of 1978, referred to in subsec. (g)(1), are amendments by section 5(a) and (e) of Pub. L. 95-256, which amended subsecs. (a), (f), and (g) of this section.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-256, § 5(a), added age requirement of at least 40 years of age, and "personnel actions" following "except".

Subsecs. (f), (g). Pub. L. 95-256, § 5(e), added subsecs. (f) and (g).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 5(f) of Pub. L. 95-256 provided that: "The amendments made by this section [amending this section and sections 8335 and 8339 of title 5, Government Organization and Employees, and repealing section 3322 of Title 5] shall take effect on September 30, 1978, except that section 15(g) of the Age Discrimination in Employment Act of 1967, as amended by subsection (e) of this section [subsec. (g) of this section], shall take effect on the date of enactment of this Act. [Apr. 6, 1978]."

TRANSFER OF FUNCTIONS

"Equal Employment Opportunity Commission" was substituted for "Civil Service Commission" pursuant to Reorg. Plan No. 1 of 1978, § 2, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, which transferred all functions vested by this section in the Civil Service Commission to the Equal Employment Opportunity Commission, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 631 of this title; title 5 sections 2302, 7702, 7703.

§ 634. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out this chapter.

(As amended Pub. L. 95-256, § 7, Apr. 6, 1978, 92 Stat. 193.)

AMENDMENTS

1978—Pub. L. 95-256 struck out ", not in excess of $5,000,000 for any fiscal year," following "sums".

TRANSFER OF FUNCTIONS

All functions relating to age discrimination administration and enforcement vested by this section in the Secretary of Labor or the Civil Service Commission were transferred to the Equal Employment Opportunity Commission by Reorg. Plan No. 1 of 1978, § 2, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

CHAPTER 15—OCCUPATIONAL SAFETY AND HEALTH

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 15 sections 2080, 2603; title 25 section 450m; title 30 section 951.

§§ 655 to 657

CHANGE OF NAME

The Secretary of Health, Education, and Welfare was redesignated the Secretary of Health and Human Services by section 3508 of Title 20, Education.

§ 661. Occupational Safety and Health Review Commission

[*See main edition for text of* (a) *to* (c)]

(d) Functions and duties of Chairman; appointment and compensation of administrative law judges and other employees

The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission and shall appoint such administrative law judges and other employees as he deems necessary to assist in the performance of the Commission's functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates: *Provided*, That assignment, removal and compensation of administrative law judges shall be in accordance with sections 3105, 3344, 5372, and 7521 of title 5.

[*See main edition for text of* (e) *to* (h)]

(i) Administrative law judges; determinations; report as final order of Commission

A[1] administrative law judge appointed by the Commission shall hear, and make a determination upon, any proceeding instituted before the Commission and any motion in connection therewith, assigned to such administrative law judge by the Chairman of the Commission, and shall make a report of any such determination which constitutes his final disposition of the proceedings. The report of the administrative law judge shall become the final order of the Commission within thirty days after such report by the administrative law judge, unless within such period any Commission member has directed that such report shall be reviewed by the Commission.

(j) Appointment and compensation of administrative law judges

Except as otherwise provided in this chapter, the administrative law judges shall be subject to the laws governing employees in the classified civil service, except that appointments shall be made without regard to section 5108 of title 5. Each administrative law judge shall receive compensation at a rate not less than that prescribed for GS–16 under section 5332 of title 5.

(As amended Pub. L. 95–251, § 2(a)(7), Mar. 27, 1978, 92 Stat. 183.)

CODIFICATION

In subsec. (d), reference to section 5372 of title 5 was substituted for section 5362 on authority of Pub. L. 95–454, § 801(a)(3)(A)(ii), Oct. 13, 1978, 92 Stat. 1221, which redesignated sections 5361 through 5365 of title 5 as sections 5371 through 5375.

[1] So in original. Probably should be "An".

AMENDMENTS

1978—Subsec. (d). Pub. L. 95–251 substituted "administrative law judges" for "hearing examiners" wherever appearing.

Subsec. (i). Pub. L. 95–251 substituted "administrative law judge" for "hearing examiner" wherever appearing.

Subsec. (j). Pub. L. 95–251 substituted "administrative law judges" for "hearing examiners" and "administrative law judge" for "hearing examiner".

§§ 669 to 671

CHANGE OF NAME

The Secretary and the Department of Health, Education, and Welfare were redesignated the Secretary and the Department of Health and Human Services by section 3508 of Title 20, Education.

§§ 673, 674

CHANGE OF NAME

The Secretary of Health, Education, and Welfare was redesignated the Secretary of Health and Human Services by section 3508 of Title 20, Education.

§ 675. Annual reports by Secretary of Labor and Secretary of Health, Education, and Welfare; contents

CHANGE OF NAME

The Secretary of Health, Education, and Welfare was redesignated the Secretary of Health and Human Services by section 3508 of Title 20, Education.

STUDY OF OCCUPATIONALLY RELATED PULMONARY AND RESPIRATORY DISEASES; STUDY TO BE COMPLETED AND REPORT SUBMITTED BY SEPTEMBER 1, 1979

Pub. L. 95–239, § 17, Mar. 1, 1978, 92 Stat. 105, authorized the Secretary of Labor, in cooperation with the Director of the National Institute for Occupational Safety and Health, to conduct a study of occupationally related pulmonary and respiratory diseases and to complete such study and report the findings to the President and Congress not later than 18 months after Mar. 1, 1978.

CHAPTER 16—VOCATIONAL REHABILITATION AND OTHER REHABILITATION SERVICES

GENERAL PROVISIONS

Sec.
710. Application of other laws [New].
711. Administration [New].
(a) Technical assistance; short-term traineeships; special projects; dissemination of information; assistance to National Council on Handicapped.
(b) Utilization of services and facilities.
(c) Rules and regulations.
(d) Authorization of appropriations.
712. Reports to President and Congress [New].
713. Program and project evaluation [New].
(a) Statement of purpose; persons eligible to conduct evaluations.
(b) Opinions of program and project participants.
(c) Publication of annual summaries.
(d) Data as property of United States.
(e) Information from other departments and agencies.
(f) Authorization of appropriations.
714. Information clearinghouse [New].
(a) Establishment; information and resources for handicapped.
(b) Information and data retrieval system.
(c) Office of Information and Resources for Handicapped.
(d) Authorization of appropriations.
715. Use of funds [New].

SUBCHAPTER I—VOCATIONAL REHABILITATION SERVICES

PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES [NEW]

Sec.
750. Vocational rehabilitation services grants.
(a) Governing bodies of Indian tribes; amount.
(b) Application; effective period.
(c) Computation of State allotment.
(d) Definition.
751. Evaluation of programs.

SUBCHAPTER II—RESEARCH AND TRAINING

761a. National Institute of Handicapped Research [New].
(a) Establishment; Director as principal officer.
(b) Duties of Director.
(c) Appointment of Director; Deputy Director; employment of technical and professional personnel; consultants.
(d) Fellowships.
(e) Scientific review of research grants and programs; peer review group.
(f) Grants or contracts with qualified public or private agencies and individuals.
(g) Report to Congress; long-range plan for rehabilitation research; review.
(h) Cooperation and consultation with other agencies and departments on design of research programs.
(i) Comprehensive and coordinated research program; interagency cooperation.
761b. Interagency Committee [New].
(a) Establishment; membership; meetings.
(b) Duties.
(c) Annual report to Congress.
762a. Research and demonstration projects [New].
(a) Multiple and interrelated service needs of handicapped individuals; report to Congress.
(b) Authorization of appropriations.
(c) Study on impact of vocational rehabilitation services; transmittal to Congress.

SUBCHAPTER III—SPECIAL FEDERAL RESPONSIBILITIES

PART A—CONSTRUCTION AND TRAINING PROGRAMS

774. Training [New].
(a) Federal grants and contracts for personnel projects relating to training, traineeships, and related activities.
(b) Balanced program of assistance meeting needs of public and private rehabilitation programs and institutions; description of projects and fields contributing to rehabilitation of handicapped individuals; study period limitation.
(c) Evaluation of programs; determination of training needs for personnel; development of long-term manpower plan.
(d) Interpreters for deaf individuals; grants; application for grants.
(e) Authorization of appropriations.
775. Comprehensive rehabilitation centers [New].
(a) Establishment and operation; grants to designated State units; information and technical assistance to local governmental units and public and private nonprofit entities.
Sec.
(b) Application for grant; approval by Commissioner.
(c) Grants or contracts by designated State unit; operation of facilities by designated State unit; personnel and equipment.
(d) Application requirements for approval of grant or contract by designated State unit; use of funds by designated State unit.
(e) Failure of owner or facility to continue to qualify; recovery by United States; determination of amount.
(f) Nonapplicability of general contract and grant requirements; exceptions.
(g) Authorization of appropriations.

PART B—SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES [NEW]

777. Authorization of appropriations.
777a. Special demonstration programs; grants; individuals with spinal cord injuries.
777b. Migratory workers; maintenance payments; coordination with other programs.
777c. Helen Keller National Center for Deaf-Blind Youths and Adults.
(a) Establishment.
(b) Statement of purposes; agreement for establishment and operation; designation.
(c) Proposals; preference.
(d) Recovery of costs of services.
(e) Authorization of appropriations.
777d. Reader services for blind persons.
(a) Grants.
(b) Application.
(c) Definition.
777e. Interpreter services for deaf persons.
(a) Grants.
(b) Application.
(c) Services provided by designated State unit; purchase or rental of equipment.
(d) Restrictions on use of funds.
777f. Recreational programs.

SUBCHAPTER IV—NATIONAL COUNCIL ON THE HANDICAPPED [NEW]

780. Establishment of National Council on the Handicapped.
(a) Membership.
(b) Term of office.
(c) Chairman; meetings.
(d) Quorum; vacancies.
781. Duties of National Council.
782. Compensation of National Council Members.
(a) Rate.
(b) Full-time officers or employees of United States.
(c) Travel expenses.
783. National Council staff.
(a) Technical and professional employees.
(b) Temporary or intermittent services.
(c) Administrative support services.
784. Administrative powers of National Council.
(a) Bylaws and rules.
(b) Hearings.
(c) Advisory committees.
(d) Use of mails.
785. Authorization of appropriations.
786, 787. Repealed.

SUBCHAPTER V—MISCELLANEOUS PROVISIONS

794a. Remedies and attorney fees [New].
794b. Removal of architectural, transportation, or communication barriers; technical and financial assistance; compensation of experts or consultants; authorization of appropriations [New].

Sec.
794c. Interagency Coordinating Council; membership; duties; annual report to President and Congress [New].

SUBCHAPTER VI—EMPLOYMENT OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS [NEW]

PART A—COMMUNITY SERVICE EMPLOYMENT PILOT PROGRAMS FOR HANDICAPPED INDIVIDUALS

795. Pilot programs.
(a) Establishment.
(b) Agreements; factors determining eligibility for cost payments; rate of pay; certificate of exemption by Department of Labor.
(c) Cost payments; non-Federal share.
(d) Method of payments.
795a. Administration.
(a) Consultation with designated State unit.
(b) Coordination with other programs.
(c) Use of services, equipment, personnel, and facilities of other agencies.
(d) Promulgation of regulations; publication in Federal Register.
(e) Delegation of functions.
795b. Employment.
(a) Participants not considered Federal employees.
(b) Workmen's compensation coverage.
(c) Wages, allowances, etc., as income and benefits for purposes of other programs.
795c. Interagency cooperation.
795d. Award of grants or contracts.
(a) Preference; equitable distribution among States; determination of allotment.
(b) Reallotment.
(c) Apportionment among areas within each State.
795e. Definitions.
795f. Authorization of appropriations.

PART B—PROJECTS WITH INDUSTRY AND BUSINESS OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

795g. Projects with industry.
(a) Agreements; joint financing.
(b) Requirements for payment.
(c) Amount of payments.
795h. Business opportunities for handicapped; promulgation of regulations.
795i. Authorization of appropriations.

SUBCHAPTER VII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING [NEW]

PART A—COMPREHENSIVE SERVICES

796. Congressional statement of purpose.
796a. Eligibility requirements; definition.
796b. Allotments.
(a) Determination of amount; territories.
(b) Proportional reduction; adjustments.
(c) Reallotment.
796c. Payments to States from allotments; Federal share.
796d. State plans; approval or disapproval by Commissioner.

PART B—CENTERS FOR INDEPENDENT LIVING

796e. Establishment and operation of independent living centers.
(a) Grant program; designated State unit.
(b) Application; contents.
(c) Application by public or nonprofit agency or organization; contents.
(d) Failure of designated State unit to apply applications from local public agencies or private nonprofit organizations.

PART C—INDEPENDENT LIVING SERVICES FOR OLDER BLIND INDIVIDUALS

796f. Establishment of service programs.
(a) Grants to designated State units.
(b) Application; contents.
(c) Grants to public or private nonprofit agencies or organizations by designated State unit.
(d) Definition.

PART D—GENERAL PROVISIONS

796g. Protection and advocacy of individual rights.
796h. Employment of handicapped individuals.

PART E—AUTHORIZATIONS

796i. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 762a of this title; title 5 section 8104; title 20 sections 107a, 107d–4, 3286, 3441; title 21 section 1173; title 22 section 2102; title 38 section 2014; title 42 sections 303, 421, 422, 603, 1203, 1353, 1382d, 3026, 6000, 6005.

GENERAL PROVISIONS

§ 701. Congressional declaration of purpose

The purpose of this chapter is to develop and implement, through research, training, services, and the guarantee of equal opportunity, comprehensive and coordinated programs of vocational rehabilitation and independent living.

(As amended Pub. L. 95–602, title I, § 122(a)(1), Nov. 6, 1978, 92 Stat. 2984.)

AMENDMENTS

1978—Pub. L. 95–602 substituted provision declaring that the purpose of this chapter is to develop and implement, through research, training, services, and equal opportunity guarantee, comprehensive and coordinated programs of vocational rehabilitation and independent living for provision declaring the purpose of this chapter was to provide a statutory basis for the Rehabilitation Services Administration and to authorize a wide range of programs designed to improve rehabilitation methods, services, and facilities, increase the number and skill of trained personnel, and provide employment opportunities for the handicapped.

SHORT TITLE OF 1978 AMENDMENTS

Section 1 of Pub. L. 95–602 provided that: "This Act [enacting sections 710 to 715, 751, 761a, 761b, 762a, 775, 777 to 777f, 780 to 785, 794a to 794c, 795 to 795i, and 796 to 796i of this title and section 6000 of Title 42, The Public Health and Welfare, amending sections 701, 702, 706, 709, 720 to 724, 730 to 732, 740, 741, 750, 760 to 762, 770 to 774, 776, and 792 to 794 of this title, section 1904 of Title 38, Veterans' Benefits, and sections 6001, 6008 to 6012, 6031 to 6033, 6061 to 6065, 6067, 6081, and 6862 of Title 42, repealing sections 764, 786, and 787 of this title and section 6007 of Title 42, omitting sections 6041 to 6043 of Title 42, enacting provisions set out as notes under sections 713 and 795 of this title and sections 6000 and 6001 of Title 42, and repealing a provision set out as a note under section 6001 of Title 42] may be cited as the 'Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978'."

Section 601 of Pub. L. 93-112, as added by Pub. L. 95-602, title II, § 201, Nov. 6, 1978, 92 Stat. 2989, provided that: "This title [adding subchapter VI of this chapter] may be cited as the 'Employment Opportunities for Handicapped Individuals Act'."

§ 702. Rehabilitation Services Administration

(a) Establishment; appointment of Commissioner; principal officer and principal agency; guiding policies

There is established in the Office of the Secretary a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this chapter referred to as the "Commissioner") appointed by the President by and with the advice and consent of the Senate. Except for subchapters IV and V and part A of subchapter VI of this chapter and as otherwise specifically provided in this chapter, such Administration shall be the principal agency, and the Commissioner shall be the principal officer, of such Department for carrying out this chapter. In the performance of his functions, the Commissioner shall be directly responsible to the Secretary or to the Under Secretary or an appropriate Assistant Secretary of such Department, as designated by the Secretary. The functions of the Commissioner shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner. Any reference in this chapter to duties to be carried out by the Commissioner shall be considered to be a reference to duties to be carried out by the Secretary acting through the Commissioner. In carrying out any of his functions under this chapter, the Commissioner shall be guided by general policies of the National Council on the Handicapped established under subchapter IV of this chapter.

(b) Expenditure of funds only for programs, personnel, and administration of programs carried out under this chapter

The Secretary shall take whatever action is necessary to insure that funds appropriated pursuant to this chapter, as well as unexpended appropriations for carrying out the Vocational Rehabilitation Act, are expended only for the programs, personnel, and administration of programs carried out under this chapter.

(c) Redesignated (b)

(As amended Pub. L. 95-602, title I, § 122(a)(2), (3), Nov. 6, 1978, 92 Stat. 2984.)

REFERENCES IN TEXT

Vocational Rehabilitation Act, referred to in subsec. (b), is act June 2, 1920, ch. 219, 41 Stat. 735, which was classified generally to chapter 4 (§ 31 et seq.) of this title and was repealed by section 500(a) of the Rehabilitation Act of 1973, Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 357. The Rehabilitation Act of 1973 is classified generally to this chapter. Section 500(a), classified to section 790 of this title, provided in part that references to the Vocational Rehabilitation Act in any other provision of law be deemed references to the Rehabilitation Act of 1973.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-602, § 122(a)(2), inserted "and part A of subchapter VI of this chapter" following "subchapters IV and V of this chapter" and provision deeming any reference in this chapter to the duties carried out by the Commissioner to be a reference to the duties carried out by the Secretary through the Commissioner and requiring the Commissioner to be guided by the policies of the National Council on the Handicapped.

Subsec. (b). Pub. L. 95-602, § 122(a)(3), redesignated subsec. (c) as (b). Former subsec. (b), which required the Secretary, through coordination with appropriate programs in the Department of Health, Education, and Welfare and consultation with the National Science Foundation and National Academy of Science, to develop innovative methods of applying advanced medical, scientific, psychological, and social knowledge to solve rehabilitation problems, and made the Secretary responsible for establishment of rehabilitation engineering research centers, was struck out.

Subsec. (c). Pub. L. 95-602, § 122(a)(3), redesignated former subsec. (c) as (b).

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 761a of this title; title 38 sections 1904, 4101.

§§ 704, 705

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 706. Definitions

For the purposes of this chapter:

[See main edition for text of (1) and (2)]

(3) The term "designated State units" means (A) any State agency unit required under section 721(a)(2)(A) of this title, or (B) in cases in which no such unit is so required, the State agency described in section 721(a)(B)(i) of this title.

(4) The term "establishment of a rehabilitation facility" means the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to rehabilitation facility purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Secretary may determine, in accordance with regulations he shall prescribe, in order to prevent inpairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of such facilities), and may include such additional equipment and staffing as the Commissioner considers appropriate.

(5) The term "evaluation of rehabilitation potential" means, as appropriate in each case:

(A) a preliminary diagnostic study to determine that the individual has a substantial handicap to employment, and that vocational rehabilitation services are needed;

(B) a diagnostic study consisting of a comprehensive evaluation of pertinent medical,

psychiatric, psychological, vocational, educational, cultural, social, and environmental factors which bear on the individual's handicap to employment and rehabilitation potential including, to the degree needed, an evaluation of the individual's personality, intelligence level, educational achievements, work experience, vocational aptitudes and interests, personal and social adjustments, employment opportunities, and other pertinent data helpful in determining the nature and scope of services needed;

(C) an appraisal of the individual's patterns of work behavior and ability to acquire occupational skill, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns suitable for successful job performance, including the utilization of work, simulated or real, to assess and develop the individual's capacities to perform adequately in a work environment;

(D) any other goods or services provided for the purpose of ascertaining the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services;

(E) referral;

(F) the administration of these evaluation services; and

(G)(i) the provision of vocational rehabilitation services to any individual for a total period not in excess of eighteen months for the purpose of determining whether such individual is a handicapped individual, a handicapped individual for whom a vocational goal is not possible or feasible (as determined in accordance with section 722(c) of this title), or neither such individual; and (ii) an assessment, at least once in every ninety-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (i) may be made.

(6) The term "Federal share" means 80 per centum, except that it shall mean 90 per centum for the purposes of part C of subchapter I of this chapter and as specifically set forth in section 771(b)(3) of this title: *Provided*, That with respect to payments pursuant to part B of subchapter I of this chapter to any State which are used to meet the costs of construction of those rehabilitation facilities identified in section 723(b)(2) of this title in such State, the Federal share shall be the percentages determined in accordance with the provisions of section 771(b)(3) of this title applicable with respect to that State and that, for the purpose of determining the non-Federal share with respect to any State, expenditures by a political subdivision thereof or by a local agency shall, subject to such limitations and conditions as the Secretary shall by regulation prescribe, be regarded as expenditures by such State.

(7)(A) Except as otherwise provided in subparagraph (B), the term "handicapped individual" means any individual who (i) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment and (ii) can reasonably be expected to benefit in terms of employability from vocational rehabilitation services provided pursuant to subchapters I and III of this chapter.

(B) Subject to the second sentence of this subparagraph, the term "handicapped individual" means, for purposes of subchapters IV and V of this chapter, any person who (i) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment. For purposes of sections 793 and 794 of this title as such sections relate to employment, such term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

(8) The term "local agency" means an agency of a unit of general local government or of an Indian tribal organization (or combination of such units or organizations) which has an agreement with the State agency designated pursuant to section 721(a)(1) of this title to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 721 of this title. Nothing in the preceding sentence of this paragraph or in section 721 of this title shall be construed to prevent the local agency from utilizing another local public or nonprofit agency to provide vocational rehabilitation services: *Provided*, That such an arrangement is made part of the agreement specified in this paragraph.

(9) The term "nonprofit", when used with respect to a rehabilitation facility, means a rehabilitation facility owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c)(3) of title 26.

(10) The term "public safety officer" means a person serving the United States or a State or unit of general local government, with or without compensation, in any activity pertaining to—

(A) the enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the National Guard or the Armed Forces,

(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,

(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

(D) firefighting, fire prevention, or emergency rescue missions.

(11) The term "rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to handicapped individuals, and which

provides singly or in combination one or more of the following services for handicapped individuals: (A) vocational rehabilitation services which shall include, under one management, medical, psychiatric, psychological, social, and vocational services, (B) testing, fitting, or training in the use of prosthetic and orthotic devices, (C) prevocational conditioning or recreational therapy, (D) physical and occupational therapy, (E) speech and hearing therapy, (F) psychiatric, psychological and social services, (G) evaluation of rehabilitation potential, (H) personal and work adjustment, (I) vocational training with a view toward career advancement (in combination with other rehabilitation services), (J) evaluation or control of specific disabilities, (K) orientation and mobility services to the blind, and (L) extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market, except that all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the State.

(12) The term "Secretary", except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

(13) The term "severe handicap" means the disability which requires multiple services over an extended period of time and results from amputation, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, renal failure, respiratory or pulmonary dysfunction, and any other disability specified by the Secretary in regulations he shall prescribe.

(14) The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, and for the purposes of American Samoa and the Trust Territory of the Pacific Islands, the appropriate State agency designated as provided in section 721(a)(1) of this title shall be the Governor of American Samoa or the High Commissioner of the Trust Territory of the Pacific Islands, as the case may be.

(15) The term "vocational rehabilitation services" means those services identified in section 723 of this title which are provided to handicapped individuals under this chapter.

(As amended Pub. L. 95–602, title I, § 122(a)(4)–(8), Nov. 6, 1978, 92 Stat. 2984, 2985.)

REFERENCES IN TEXT

Section 721(a)(B)(i) of this title, referred to in par. (3), in the original read "section 101(a)(B)(i) of this Act". As enacted the citation omitted a paragraph designation but is probably a reference to section 721(a)(1)(B)(i) of this title.

CODIFICATION

Section 122(a)(7)(B) of Pub. L. 95–602 which directed the amendment of cl. (B) of par. (11) was executed to cl. (F) of par. (11) as the probable intent of Congress. See 1978 Amendment note for par. (11) below.

AMENDMENTS

1978—Par. (3). Pub. L. 95–602, § 122(a)(8), added par. (3). Former par. (3) redesignated (4).

Par. (4). Pub. L. 95–602, § 122(a)(4), (8), redesignated former par. (3) as (4), and in par. (4) as so redesignated, substituted "and may include such additional equipment and staffing as the Commissioner considers appropriate" for "and the initial equipment for such buildings, and may include the initial staffing thereof".

Par. (5). Pub. L. 95–602, § 122(a)(5), (8), redesignated former par. (4) as (5), and in par. (5) as so redesignated, inserted in subpar. (B), "psychiatric" following "medical".

Par. (6). Pub. L. 95–602, § 122(a)(8), redesignated former par. (5) as (6).

Par. (7). Pub. L. 95–602, § 122(a)(6), (8), redesignated former par. (6) as (7), and in par. (7) as so redesignated, substituted "(A) Except as otherwise provided in subparagraph (B), the term" for "The term", redesignated cls. (A) and (B) as cls. (i) and (ii), respectively, struck out provision defining "handicapped individual" for purposes of subchapters IV and V of this chapter as any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment, and added subpar. (B).

Pars. (8) to (10). Pub. L. 95–602, § 122(a)(8), redesignated former pars. (7) to (9) as (8) to (10), respectively.

Par. (11). Pub. L. 95–602, § 122(a)(7), (8), redesignated former par. (10) as (11), and in par. (11) as so redesignated, inserted in cl. (A), ", psychiatric" following "medical" and in cl. (F), "psychiatric" preceding "psychological". See Codification note above.

Pars. (12) to (15). Pub. L. 95–602, § 122(a)(8), redesignated former pars. (11) to (14) as (12) to (15), respectively.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 793, 794, 795, 802 of this title; title 38 section 2012; title 42 sections 1975c, 6862.

§§ 707, 708

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 709. Nonduplication prohibition

In determining the amount of any State's Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved in accordance with section 721 of this title, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any other provision of law, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds. No payment may be made from funds provided under one provision of this chapter relating to any cost with respect to which any payment is

made under any other provision of this chapter except that this section shall not be construed to limit or reduce fees for services rendered by rehabilitation facilities.

(As amended Pub. L. 95–602, title I, § 122(a)(9), Nov. 6, 1978, 92 Stat. 2985.)

AMENDMENTS

1978—Pub. L. 95–602 provided that this section not be construed to limit or reduce fees for services rendered by rehabilitation facilities.

§ 710. Application of other laws

The provisions of chapter 52A of title 42 and of section 1469a of title 48 shall not apply to the administration of the provisions of this chapter or to the administration of any program or activity under this chapter.

(Pub. L. 93–112, § 11, as added Pub. L. 95–602, title I, § 121, Nov. 6, 1978, 92 Stat. 2984.)

REFERENCES IN TEXT

Chapter 52A (§ 4251 et seq.) of title 42, referred to in text, was in the original a reference to the act of Dec. 5, 1974, Pub. L. 93–510, 88 Stat. 1604, which is known as the Joint Funding Simplification Act of 1974.

§ 711. Administration

(a) Technical assistance; short-term traineeships; special projects; dissemination of information; assistance to National Council on Handicapped

In carrying out the purposes of this chapter, the Commissioner may—

(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations;

(2) provide short-term training and technical instruction;

(3) conduct special projects and demonstrations;

(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this chapter; and

(5) provide staff and other technical assistance to the National Council on the Handicapped.

(b) Utilization of services and facilities

In carrying out his duties under this chapter, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and may pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

(c) Rules and regulations

The Commissioner may promulgate such regulations as he considers appropriate to carry out his duties under this chapter.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary.

(Pub. L. 93–112, § 12, as added Pub. L. 95–602, title I, § 122(a)(10), Nov. 6, 1978, 92 Stat. 2985.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 780 of this title prior to repeal of that section by Pub. L. 95–602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 712. Reports to President and Congress

Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President for transmittal to the Congress a full and complete report on the activities carried out under this chapter. Such annual reports shall include statistical data reflecting services and activities provided individuals during the preceding fiscal year.

(Pub. L. 93–112, § 13, as added Pub. L. 95–602, title I, § 122(a)(10), Nov. 6, 1978, 92 Stat. 2985.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 784 of this title prior to repeal of that section by Pub. L. 95–602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 721, 776 of this title.

§ 713. Program and project evaluation

(a) Statement of purpose; persons eligible to conduct evaluations

The Secretary shall evaluate the impact of all programs authorized by this chapter, their general effectiveness in achieving stated goals, and their effectiveness in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(b) Opinions of program and project participants

In carrying out evaluations under this section, the Secretary shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

(c) Publication of annual summaries

The Secretary shall annually publish summaries of the results of evaluative research and evaluation of program and project impact and

effectiveness, the full contents of which shall be available to the Congress and the public.

(d) Data as property of United States

The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(e) Information from other departments and agencies

Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this section shall be made available to him, upon request, by the departments and agencies of the executive branch.

(f) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary.

(Pub. L. 93-112, § 14, as added Pub. L. 95-602, title I, § 122(a)(10), Nov. 6, 1978, 92 Stat. 2986.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 781 of this title prior to repeal of that section by Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

STUDY ON SPECIAL PROBLEMS AND NEEDS OF HANDICAPPED INDIVIDUALS RESIDING IN RURAL AREAS; REPORT TO PRESIDENT AND CONGRESS

Section 402 of Pub. L. 95-602 provided that: "The Secretary, after consultation with the Commissioner of the Rehabilitation Services Administration, Commissioner of Education, the Director of the National Institute on Handicapped Research, and other appropriate officials, organizations, and individuals, shall conduct a study of the special problems and needs of handicapped individuals who reside in rural areas in the United States. Upon the completion of such study, but not later than eighteen months after the date of enactment of this Act [Nov. 6, 1978], the Secretary shall submit the results of such study, together with such recommendations as he deems appropriate to the President, and to the appropriate committees of the Congress."

STUDY ON ELIMINATION OF DISINCENTIVES TO EMPLOYMENT FOR INDIVIDUALS RECEIVING BENEFITS; REPORT TO PRESIDENT AND CONGRESS

Section 403 of Pub. L. 95-602 provided that: "In consultation with appropriate Federal departments and agencies, the Secretary shall conduct a study of possible ways to structure Federal programs providing benefits to handicapped individuals in order to eliminate any disincentives for individuals receiving benefits under such programs to obtain and continue in employment. Upon the completion of such study, but not later than twenty-four months after the date of enactment of this Act [Nov. 6, 1978], the Secretary shall submit the results of such study, together with such recommendations as the Secretary deems appropriate to the President and the Congress."

§ 714. Information clearinghouse

(a) Establishment; information and resources for handicapped

The Secretary may establish a central clearinghouse for information and resource availability for handicapped individuals which shall provide information and data regarding (1) the location, provision, and availability of services and programs for handicapped individuals, (2) research and recent medical and scientific developments bearing on handicapping conditions (and their prevention, amelioration, causes, and cures), and (3) the current numbers of handicapped individuals and their needs. The clearinghouse shall also provide any other relevant information and data which the Secretary considers appropriate.

(b) Information and data retrieval system

The Commissioner may assist the Secretary to develop within the Department of Health, Education, and Welfare a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide information regarding the information and data referred to in subsection (a) of this section to the Congress, public and private agencies and organizations, handicapped individuals and their families, professionals in fields serving such individuals, and the general public.

(c) Office of Information and Resources for Handicapped

Any office established to carry out the provisions of this section shall be known as the "Office of Information and Resources for the Handicapped".

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary.

(Pub. L. 93-112, § 15, as added Pub. L. 95-602, title I, § 122(a)(10), Nov. 6, 1978, 92 Stat. 2986.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 715. Use of funds

No funds appropriated under this chapter for any research program or activity may be used for any purpose other than that for which the funds were specifically authorized.

(Pub. L. 93-112, § 16, as added Pub. L. 95-602, title I, § 122(a)(10), Nov. 6, 1978, 92 Stat. 2987.)

SUBCHAPTER I—VOCATIONAL REHABILITATION SERVICES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 706, 796, 796a of this title.

PART A—GENERAL PROVISIONS

§ 720. Federal grants

[*See main edition for text of* (a)]

(b) Authorization of appropriations

(1) For the purpose of making grants to States under part B of this subchapter to assist them in meeting costs of vocational rehabilitation services provided in accordance with State plans under section 721 of this title, there is authorized to be appropriated $650,000,000 for the fiscal year ending June 30, 1974, $680,000,000 for the fiscal year ending June 30, 1975, $720,000,000 for the fiscal year ending June 30, 1976, $740,000,000 for the fiscal year ending September 30, 1977, and $760,000,000 for the fiscal year ending September 30, 1978. There is further authorized to be appropriated for such purpose $808,000,000 for the fiscal year ending September 30, 1979, and the amount determined under subsection (c) of this section for the three succeeding fiscal years but in no event shall the amount appropriated be greater than $880,000,000 for the fiscal year ending September 30, 1980, $945,000,000 for the fiscal year ending September 30, 1981, and $972,000,000 for the fiscal year ending September 30, 1982.

(2) For the purpose of allotments under section 740(a)(1) of this title, there are authorized to be appropriated $45,000,000 for the fiscal year ending September 30, 1979, $50,000,000 for the fiscal year ending September 30, 1980, $55,000,000 for the fiscal year ending September 30, 1981, and $60,000,000 for the fiscal year ending September 30, 1982. There are further authorized to be appropriated for such purpose for each such year such additional sums as the Congress may determine to be necessary.

(3) For the purpose of making grants to Indian tribes under part D of this subchapter, there are authorized to be appropriated for the fiscal year ending September 30, 1979, and for each of the three fiscal years thereafter, in addition to any other amounts authorized to be appropriated under this section, such sums as may be necessary for such fiscal year, but not more than an amount equal to 1 percent of the amount appropriated for that fiscal year under paragraph (1) of this subsection.

(c) Percentage change in price index; publication in Federal Register; increase in appropriations

(1) No later than November 15 of each fiscal year (beginning with the fiscal year 1979), the Secretary of Labor shall publish in the Federal Register the percentage change in the price index published for October of the preceding fiscal year and October of the fiscal year in which such publication is made.

(2)(A) If in any fiscal year the percentage change published under paragraph (1) indicates an increase in the price index, then the amount authorized to be appropriated under subsection (b)(1) of this section for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under paragraph (1) increased by such percentage change.

(B) If in any fiscal year the percentage change published under paragraph (1) does not indicate an increase in the price index, then the amount authorized to be appropriated under subsection (b)(1) of this section for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under paragraph (1).

(3) For purposes of this subsection, the term "price index" means the Consumer Price Index for All Urban Consumers, published monthly by the Bureau of Labor Statistics.

(As amended Pub. L. 95-602, title I, § 101(a), (b), Nov. 6, 1978, 92 Stat. 2955.)

AMENDMENTS

1978—Subsec. (b)(1). Pub. L. 95-602, § 101(a)(1), added provisions authorizing appropriations of $808,000,000 for the fiscal year ending Sept. 30, 1979 and for amounts determined under subsec. (c) for the succeeding three fiscal years providing that the amounts appropriated not exceed $880,000,000 for the fiscal year ending Sept. 30, 1980, $945,000,000 for the fiscal year ending Sept. 30, 1981, and $972,000,000 for the fiscal year ending Sept. 30, 1982.

Subsec. (b)(2). Pub. L. 95-602, § 101(a)(2), substituted provision authorizing appropriations for allotments under section 740(a)(1) of this title of $45,000,000 for the fiscal year ending Sept. 30, 1979, $50,000,000 for the fiscal year ending Sept. 30, 1980, $55,000,000 for the fiscal year ending Sept. 30, 1981, and $60,000,000 for the fiscal year ending Sept. 30, 1982 for provision authorizing appropriations for carrying out part C of this subchapter (relating to grants to States and public and nonprofit agencies) and former part D of this subchapter (relating to a comprehensive study of the needs of the most severely handicapped) of $37,000,000 for the fiscal year ending June 30, 1974, $39,000,000 for the fiscal year ending June 30, 1975, $42,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for the fiscal years ending Sept. 30, 1977 and Sept. 30, 1978, but restricting the amount available in each fiscal year for carrying out former part D to $1,000,000.

Subsec. (b)(3). Pub. L. 95-602, § 101(a)(3), added par. (3).

Subsec. (c). Pub. L. 95-602, § 101(b), added subsec. (c).

§ 721. State plans

(a) Three year plan; annual revisions; general and specific requirements

In order to be eligible to participate in programs under this subchapter, a State shall submit to the Commissioner a State plan for vocational rehabilitation services for a three-year period and, upon request of the Commissioner, shall make such annual revisions in the plan as may be necessary. Each such plan shall—

(1) State agency for plan administration, designation; separate agencies for services to the blind and for other services; joint program; political subdivision participation, waiver; qualification of State agency

(A) designate a State agency as the sole State agency to administer the plan, or to supervise its administration by a local agency, except that (i) where under the State's law the State agency for the blind or other agency which provides assistance or services to the adult blind, is authorized to provide vocational rehabilitation services to such individuals, such agency may be designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for the blind (or to supervise the administration of such part by a local agency) and a separate State agency

may be designated as the sole State agency with respect to the rest of the State plan, and (ii) the Commissioner, upon the request of a State, may authorize such agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit such agencies to carry out a joint program to provide services to handicapped individuals, and may waive compliance with respect to vocational rehabilitation services furnished under such programs with the requirement of clause (4) of this subsection that the plan be in effect in all political subdivisions of that State;

[*See main edition for text of (B); (2) and (3)*]

(4) Political subdivision participation, waiver; regulations; funds of local agency for non-Federal share of cost of services

provide that the plan shall be in effect in all political subdivisions, except that in the case of any activity which, in the judgment of the Commissioner, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of handicapped individuals or groups of handicapped individuals the Commissioner may waive compliance with the requirement herein that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by him, but only if the non-Federal share of the cost of such vocational rehabilitation services is met from funds made available by a local agency (including, to the extent permitted by such regulations, funds, contributed to such agency by a private agency, organization, or individual);

(5) Plans, policies, and methods for execution, administration, and supervision of State plan; expansion and improvement of services; maximum utilization of facilities; priorities in order of selection; achievement of outcome and service goals

(A) contain the plans, policies, and methods to be followed in carrying out the State plan and in its administration and supervision, including a description of the method to be used to expand and improve services to handicapped individuals with the most severe handicaps and a description of the method to be used to utilize existing rehabilitation facilities to the maximum extent feasible; and, in the event that vocational rehabilitation services cannot be provided to all eligible handicapped individuals who apply for such services, show (i) the order to be followed in selecting individuals to whom vocational rehabilitation services will be provided, and (ii) the outcomes and service goals, and the time within which they may be achieved, for the rehabilitation of such individuals, which order of selection for the provision of vocational rehabilitation services shall be determined on the basis of serving first those individuals with the most severe handicaps and shall be consistent with priorities in such order of selection so determined, and outcome and service goals for serving handicapped individuals, established in regulations prescribed by the Commissioner; and

(B) provide satisfactory assurances to the Commissioner that the State has studied and considered a broad variety of means for providing services to individuals with the most severe handicaps;

(6) Methods of administration; state employment requirement; architectural barriers requirement

(A) provide for such methods of administration, other than methods relating to the establishment and maintenance of personnel standards, as are found by the Commissioner to be necessary for the proper and efficient administration of the plan (including a requirement that the State agency and facilities in receipt of assistance under this subchapter shall take affirmative action to employ and advance in employment qualified handicapped individuals covered under, and on the same terms and conditions as set forth in, section 793 of this title); and

(B) provide satisfactory assurances that facilities used in connection with the delivery of services assisted under the plan will comply with the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968 [42 U.S.C. 4151 et seq.];

(7) Personnel standards; State licensure laws and regulations; minimum standards for facilities and personnel utilized in providing rehabilitation services; minimum standards to assure availability of trained language interpreters

contain (A) provisions relating to the establishment and maintenance of personnel standards, which are consistent with any State licensure laws and regulations, including provisions relating to the tenure, selection, appointment, and qualifications of personnel, (B) provisions relating to the establishment and maintenance of minimum standards governing the facilities and personnel utilized in the provision of vocational rehabilitation services, but the Commissioner shall exercise no authority with respect to the selection, method of selection, tenure of office, or compensation of any individual employed in accordance with such provision, and (C) provisions relating to the establishment and maintenance of minimum standards to assure the availability of personnel, to the maximum extent feasible, trained to communicate in the client's native language or mode of communication;

[*See main edition for text of (8)*]

(9) Individualized written rehabilitation program

provide that (A) an individualized written rehabilitation program meeting the requirements of section 722 of this title will be developed for each handicapped individual eligible for vocational rehabilitation services under this chapter, (B) such services will be provided under the plan in accordance with such program, and (C) records of the characteristics of each applicant will be kept specifying, as to those individuals who apply for services under this subchapter and are determined not

to be eligible therefor, the reasons for such determinations in such detail as required by the Commissioner in order for him to analyze and evaluate annually the reasons for and numbers of such ineligibility determinations as part of his responsibilities under section 712 of this title, and that the State agency will at least annually categorize and analyze such reasons and numbers and report this information to the Commissioner and will, not later than 12 months after each such determination, review each such ineligibility determination in accordance with the criteria set forth in section 722 of this title;

(10) Reports of State agency; form; scope of information; time of report; correctness and verification

provide that the State agency will make such reports in such form, containing such information (including the data described in subclause (C) of clause (9) of this subsection, periodic estimates of the population of handicapped individuals eligible for services under this chapter in such State, specifications of the number of such individuals who will be served with funds provided under this chapter and the outcomes and service goals to be achieved for such individuals in each priority category specified in accordance with clause (5) of this subsection, and the service costs for each such category), and at such time as the Commissioner may require to carry out his functions under this subchapter, and comply with such provisions as he may find necessary to assure the correctness and verification of such reports;

(11) Intergovernmental cooperation

provide for entering into cooperative arrangements with, and the utilization of the services and facilities of, the State agencies administering the State's public assistance programs, other programs for handicapped individuals, veterans programs, manpower programs, and public employment offices, and the Social Security Administration of the Department of Health, Education, and Welfare, the Veterans' Administration, and other Federal, State, and local public agencies providing services related to the rehabilitation of handicapped individuals (specifically including arrangements for the coordination of services to individuals eligible for services under this chapter, the Education of the Handicapped Act [20 U.S.C. 1401 et seq.], and the Vocational Education Act [20 U.S.C. 2301 et seq.]);

(12) Community resources; utilization; agreements for services provided by rehabilitation facilities

(A) provide satisfactory assurances to the Commissioner that, in the provision of vocational rehabilitation services, maximum utilization shall be made of public or other vocational or technical training facilities or other appropriate resources in the community; and

(B) provide (as appropriate) for entering into agreements with the operators of rehabilitation facilities for the provision of services for the rehabilitation of handicapped individuals;

[See main edition for text of (13) and (14)]

(15) Continuing studies

provide for continuing statewide studies of the needs of handicapped individuals and how these needs may be most effectively met (including the capacity and condition of rehabilitation facilities, plans for improving such facilities, and policies for the use thereof by the State agency) and review of the efficacy of the criteria employed with respect to ineligibility determinations described in subclause (C) of clause (9) of this subsection with a view toward the relative need for services to significant segments of the population of handicapped individuals and the need for expansion of services to those individuals with the most severe handicaps;

[See main edition for text of (16)]

(17) State facilities, construction; Federal share of construction costs; general grant and contract requirements applicable; nonreduction of other rehabilitation services

provide that where such State plan includes provisions for the construction of rehabilitation facilities—

(A) the Federal share of the cost of construction thereof for a fiscal year will not exceed an amount equal to 10 per centum of the State's allotment for such year,

(B) the provisions of section 776 of this title shall be applicable to such construction and such provisions shall be deemed to apply to such construction, and

(C) there shall be compliance with regulations the Commissioner shall prescribe designed to assure that no State will reduce its efforts in providing other vocational rehabilitation services (other than for the establishment of rehabilitation facilities) because its plan includes such provisions for construction;

(18) Policy planning; trainee participation

provide satisfactory assurances to the Commissioner that the State agency designated pursuant to clause (1) (or each State agency if two are so designated) and any sole local agency administering the plan in a political subdivision of the State will take into account, in connection with matters of general policy arising in the administration of the plan, the views of individuals and groups thereof who are recipients of vocational rehabilitation services (or, in appropriate cases, their parents or guardians), personnel working in the field of vocational rehabilitation, and providers of vocational rehabilitation services;

(19) Amendments; continuing studies and annual evaluation as basis

provide satisfactory assurances to the Commissioner that the continuing studies required under clause (15) of this subsection, as well as an annual evaluation of the effectiveness of the program in meeting the goals and priorities set forth in the plan, will form the basis for the submission, from time to time as the Commissioner may require, of appropriate amendments to the plan;

(20) Services to handicapped American Indians

provide satisfactory assurances to the Commissioner that, except as otherwise provided in section 750 of this title, the State shall provide vocational rehabilitation services to handicapped American Indians residing in the State to the same extent as the State provides such services to other significant segments of the population of handicapped individuals residing in the State;

(21) Contracts with profitmaking organizations; on-the-job training

provide that the State agency has the authority to enter into contracts with profitmaking organizations for the purpose of providing on-the-job training and related programs for handicapped individuals under part B of subchapter VI of this chapter upon a determination by such agency that such profitmaking organizations are better qualified to provide such rehabilitation services than nonprofit agencies and organizations; and

(22) Information and referral programs

provide for the establishment and maintenance of information and referral programs (the staff of which shall include, to the maximum extent feasible, interpreters for the deaf) in sufficient numbers to assure that handicapped individuals within the State are afforded accurate vocational rehabilitation information and appropriate referrals to other Federal and State programs and activities which would benefit them.

(b) Approval or disapproval by Commissioner; notice and hearing

The Commissioner shall approve any plan which he finds fulfills the conditions specified in subsection (a) of this section, and he shall disapprove any plan which does not fulfill such conditions. Prior to such disapproval, the Commissioner shall notify a State of his intention to disapprove its plan, and he shall afford such State reasonable notice and opportunity for hearing.

(c) Noncompliance; payment limitation; disbursement of withheld funds

(1) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this section, finds that—

(A) the plan has been so changed that it no longer complies with the requirements of subsection (a) of this section; or

(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan,

the Commissioner shall notify such State agency that no further payments will be made to the State under this subchapter (or, in his discretion, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until he is satisfied there is no longer any such failure. Until he is so satisfied, the Commissioner shall make no further payments to such State under this subchapter (or shall limit payments to projects under those parts of the State plan in which there is no such failure).

(2) The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of subsection (a) of this section. The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

(d) Judicial review; limitation; additional submissions and presentations; new or modified determinations by Commissioner; relief; scope of review

(1) Any State which is dissatisfied with a final determination of the Commissioner under subsection (b) or (c) of this section may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the thirty-day period beginning on the date notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by him for that purpose. In accordance with section 2112 of title 28, the Commissioner shall file with the court a record of the proceeding on which he based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

(2) If, in an action under this subsection to review a final determination of the Commissioner under subsection (b) or (c) of this section, the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within thirty days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

(3)(A) Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction (i) to grant appropriate relief as provided in chapter 7 of title 5, except for interim relief with respect to a determination under subsection (c) of this section, and (ii) except as otherwise provided in subparagraph (B), to review such de-

termination in accordance with chapter 7 of title 5.

(B) Section 706 of title 5, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).

(As amended Pub. L. 95-602, title I, §§ 102, 122(b)(1), Nov. 6, 1978, 92 Stat. 2957, 2987.)

REFERENCES IN TEXT

The Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, referred to in subsec. (a)(6)(B), is Pub. L. 90-480, Aug. 12, 1968, 82 Stat. 718, as amended, which is classified generally to chapter 51 (§ 4151 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, Short Title note set out under section 4151 of Title 42 and see Tables.

The Education of the Handicapped Act, referred to in subsec. (a)(11), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1401 et seq.) of Title 20, Education. For complete classification of this Act the Code, see Short Title note set out under section 1401 of Title 20 and Tables.

The Vocational Education Act, referred to in subsec. (a)(11), probably means the Vocational Education Act of 1963, Pub. L. 88-210, title I, Dec. 18, 1963, 77 Stat. 403, which was classified to chapter 32 (§ 1241 et seq.) of Title 20, Education, and was completely amended and reorganized by the Education Amendments of 1976, Pub. L. 94-482, title II, § 202(a), Oct. 21, 1976, 90 Stat. 2169, and is now classified to chapter 44 (§ 2301 et seq.) of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables. For additional details, see also the Codification note preceding section 1241 of Title 20.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-602, § 102(a)(1), substituted in provision preceding par. (1)(A), provision requiring a State to submit to the Commissioner a plan for a three year period and upon request to make annual revisions for provision requiring a State to submit to the Secretary an annual plan.

Subsec. (a)(1)(A). Pub. L. 95-602, § 122(b)(1), substituted "Commissioner" for "Secretary".

Subsec. (a)(4). Pub. L. 95-602, § 122(b)(1), substituted "Commissioner" for "Secretary" in two places.

Subsec. (a)(5)(A). Pub. L. 95-602, §§ 102(a)(2), 122(b)(1), inserted provision requiring a description of the method to be used to utilize existing facilities to the maximum extent feasible and substituted "Commissioner" for "Secretary".

Subsec. (a)(5)(B). Pub. L. 95-602, § 122(b)(1), substituted "Commissioner" for "Secretary".

Subsec. (a)(6). Pub. L. 95-602, §§ 102(a)(3), 122(b)(1), designated existing provision as subpar. (A), and in subpar. (A) as so designated, substituted "Commissioner" for "Secretary", and added subpar. (B).

Subsec. (a)(7). Pub. L. 95-602, §§ 102(a)(4), 122(b)(1), substituted in cl. (B), "Commissioner" for "Secretary" and added cl. (C).

Subsec. (a)(9). Pub. L. 95-602, §§ 102(a)(5), 122(b)(1), substituted in cl. (C), "section 712 of this title" for "section 781 of this title" and "Commissioner" for "Secretary" wherever appearing.

Subsec. (a)(10). Pub. L. 95-602, § 122(b)(1), substituted "Commissioner" for "Secretary".

Subsec. (a)(11). Pub. L. 95-602, § 102(a)(6), inserted "(specifically including arrangements for the coordination of services to individuals eligible for services under this chapter, the Education of the Handicapped Act, and the Vocational Education Act)" following "handicapped individuals".

Subsec. (a)(12). Pub. L. 95-602, §§ 102(a)(7), 122(b)(1), designated existing provision as subpar. (A), and in subpar. (A) as so designated, substituted "Commissioner" for "Secretary", and added subpar. (B).

Subsec. (a)(15). Pub. L. 95-602, § 102(a)(8), substituted "(including the capacity and condition of rehabilitation facilities, plans for improving such facilities, and policies for the use thereof by the State agency)" for "(including the State's needs for rehabilitation facilities)".

Subsec. (a)(17)(C). Pub. L. 95-602, § 122(b)(1), substituted "Commissioner" for "Secretary".

Subsec. (a)(18). Pub. L. 95-602, §§ 102(a)(9), 122(b)(1), substituted "Commissioner" for "Secretary" and inserted "personnel" preceding "working in the field".

Subsec. (a)(19). Pub. L. 95-602, §§ 102(a)(10), 122(b)(1), substituted "Commissioner" for "Secretary" in two places.

Subsec. (a)(20) to (22). Pub. L. 95-602, § 102(a)(11), added pars. (20) to (22).

Subsec. (b). Pub. L. 95-602, § 122(b)(1), substituted "Commissioner" for "Secretary" wherever appearing.

Subsec. (c). Pub. L. 95-602, §§ 102(b), 122(b)(1), designated existing provision as par. (1), and in par. (1) as so designated, redesignated pars. (1) and (2) as subpars. (A) and (B), respectively and substituted "Commissioner" for "Secretary" wherever appearing, and added par. (2).

Subsec. (d). Pub. L. 95-602, § 102(c), substituted provisions authorizing judicial review of determinations by the Commissioner in the Court of Appeals for the circuit in which the State is located provided a petition is filed within thirty days after the date notice of the final determination was received by the State, permitting additional submissions and presentations, and granting the court jurisdiction to administer appropriate relief in accordance with chapter 7 of title 5, except with respect to interim relief for a determination under subsec. (c) and to the standard of relief under section 706(2)(E) of title 5 for provisions authorizing judicial review of the action of the Secretary in the United States district court for the district where the capital of the State is located and providing review of such action be on the record in accordance with chapter 7 of title 5.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education and redesignation of the Department of Health, Education, and Welfare as the Department of Health and Human Services, see sections 3441 and 3508 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 705, 706, 709, 720, 722, 730, 731, 732, 741, 751, 762, 771, 772, 776, 777b, 777e, 795, 796d of this title; title 20 section 107a; title 21 section 1173.

§ 722. Individualized written rehabilitation program

(a) Joint development by counselor or coordinator and handicapped individual; goods and services for handicapped individual; terms and conditions, rights and remedies

The Commissioner shall insure that the individualized written rehabilitation program, or the specification of reasons for a determination

of ineligibility prior to initiation of such program based on preliminary diagnosis, required by section 721(a)(9) of this title in the case of each handicapped individual is developed jointly by the vocational rehabilitation counselor or coordinator and the handicapped individual (or, in appropriate cases, his parents or guardians), and that such program meets the requirements set forth in subsection (b) of this section. Such written program shall set forth the terms and conditions, as well as the rights and remedies, under which goods and services will be provided to the individual, and, as appropriate, such specification of reasons for such an ineligibility determination shall set forth the rights and remedies, including recourse to the process set forth in subsection (b)(5) of this section, available to the individual in question.

(b) Annual review; joint redevelopment and agreement of terms; scope of program

Each individualized written rehabilitation program shall be reviewed on an annual basis at which time each such individual (or, in appropriate cases, his parents or guardians) will be afforded an opportunity to review such program and jointly redevelop and agree to its terms. Such program shall include, but not be limited to (1) a statement of long-range rehabilitation goals for the individual and intermediate rehabilitation objectives related to the attainment of such goals, (2) a statement of the specific vocational rehabilitation services to be provided, (3) the projected date for the initiation and the anticipated duration of each such service, (4) objective criteria and evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and, (5) where appropriate, a detailed explanation of the availability of a client assistance project established in such area pursuant to section 732 of this title.

(c) Determination and achievement of vocational goal; decision respecting potential and capability of achievement; annual review of decision

The Commissioner shall also insure that (1) in making any determination of ineligibility referred to in subsection (a) of this section, or in developing and carrying out the individualized written rehabilitation program required by section 721 of this title in the case of each handicapped individual, emphasis is placed upon the determination and achievement of a vocational goal for such individual, (2) a decision that such an individual is not capable of achieving such a goal and thus not eligible for vocational rehabilitation services provided with assistance under this part, is made only in full consultation with such individual (or, in appropriate cases, his parents or guardians), and only upon the certification, as an amendment to such written program, or as a part of the specification of reasons for an ineligibility determination, as appropriate, that the preliminary diagnosis or evaluation of rehabilitation potential, as appropriate, has demonstrated beyond any reasonable doubt that such individual is not then capable of achieving such a goal, and (3) any such decision, as an amendment to such written program, shall be reviewed at least annually in accordance with the procedure and criteria established in this section.

(d) Review by Director of determinations by rehabilitation counselor or coordinator; review of final decision of Director by Commissioner

(1) The Director of any designated State unit shall establish procedures for the review of determinations made by the rehabilitation counselor or coordinator under this section, upon the request of a handicapped individual (or, in appropriate cases, his parents or guardians). Such procedures shall include a requirement that the final decision concerning the review of any such determination be made in writing by the Director. The Director may not delegate his responsibility to make any such final decision to any other officer or employee of the designated State unit.

(2) Any handicapped individual (or, in appropriate cases, his parent or guardian) who is not satisfied with the final decision made under paragraph (1) by the Director of the designated State unit may request the Secretary to review such decision. Upon such request the Secretary shall conduct such a review and shall make recommendations to the Director as to the appropriate disposition of the matter. The Secretary may not delegate his responsibilities under this paragraph to any officer of the Department of Health, Education, and Welfare who is employed at a position below that of an Assistant Secretary.

(As amended Pub. L. 95-602, title I, §§ 103, 122(b)(1), Nov. 6, 1978, 92 Stat. 2959, 2987.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-602, § 122(b)(1), substituted "Commissioner" for "Secretary".

Subsec. (b). Pub. L. 95-602, § 103(1), inserted "and agree to" following "redevelop".

Subsec. (c). Pub. L. 95-602, § 122(b)(1), substituted "Commissioner" for "Secretary".

Subsec. (d). Pub. L. 95-602, § 103(2), added subsec. (d).

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 721, 796d of this title.

§ 723. Scope of vocational rehabilitation services

(a) Individual services

Vocational rehabilitation services provided under this chapter are any goods or services necessary to render a handicapped individual employable, including, but not limited to, the following:

(1) evaluation of rehabilitation potential, including diagnostic and related services, incidental to the determination of eligibility for, and the nature and scope of, services to be provided, including, where appropriate, examination by a physician skilled in the diagnosis and treatment of mental or emotional disor-

ders, or by a licensed psychologist in accordance with State laws and regulations, or both;

[See main edition for text of (2) to (11)]

(b) Group services

Vocational rehabilitation services, when provided for the benefit of groups of individuals, may also include the following:

(1) in the case of any type of small business operated by individuals with the most severe handicaps the operation of which can be improved by management services and supervision provided by the State agency, the provision of such services and supervision, along or together with the acquisition by the State agency of vending facilities or other equipment and initial stocks and supplies;

(2) the construction or establishment of public or nonprofit rehabilitation facilities and the provision of other facilities and services (including services offered at rehabilitation facilities) which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized rehabilitation written program of any one handicapped individual;

(3) the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programming to meet the particular needs of handicapped individuals; and

(4) the use of services providing recorded material for the blind and captioned films or video cassettes for the deaf.

(As amended Pub. L. 95-602, title I, § 104, Nov. 6, 1978, 92 Stat. 2960.)

AMENDMENTS

1978—Subsec. (a)(1). Pub. L. 95-602, § 104(a), inserted "mental or" preceding "emotional".

Subsec. (b). Pub. L. 95-602, § 104(b), inserted in par. (2), "(including services offered at rehabilitation facilities)" following "services" and added pars. (3) and (4).

§ 724. Non-Federal share for construction

For the purpose of determining the amount of payments to States for carrying out part B of this subchapter, the non-Federal share, subject to such limitations and conditions as may be prescribed in regulations by the Commissioner, shall include contributions of funds made by any private agency, organization, or individual to a State or local agency to assist in meeting the costs of construction or establishment of a public or nonprofit rehabilitation facility, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to construction or establishment of such facility.

(As amended Pub. L. 95-602, title I, § 122(b)(1), Nov. 6, 1978, 92 Stat. 2987.)

AMENDMENTS

1978—Pub. L. 95-602 substituted "Commissioner" for "Secretary".

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

PART B—BASIC VOCATIONAL REHABILITATION SERVICES

§ 730. State allotments

(a) Computation; additional amount; minimum amount; adjustments

(1) For each fiscal year beginning before October 1, 1978, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under section 720(b)(1) of this title for allotment under this section as the product of (A) the population of the State, and (B) the square of its allotment percentage, bears to the sum of the corresponding products for all the States.

(2)(A) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment in an amount equal to the amount such State received under paragraph (1) for the fiscal year ending September 30, 1978, and an additional amount determined pursuant to subparagraph (B) of this paragraph.

(B) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment, from any amount authorized to be appropriated for such fiscal year under section 720(b)(1) of this title for allotment under this section in excess of the amount appropriated under section 720(b)(1) of this title for the fiscal year ending September 30, 1978, in an amount equal to the sum of—

(i) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and the square of its allotment percentage bears to the sum of the corresponding products for all the States; and

(ii) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and its allotment percentage bears to the sum of the corresponding products for all the States.

(3) The sum of the payment to any State (other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands) under this subsection for any fiscal year which is less than one-third of 1 percent of the amount appropriated under section 720(b)(1) of this title, or $3,000,000, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment to each of the remaining such States under this subsection, but with such adjustments as may be necessary to prevent the sum of the allotments made under this subsection to any such remaining State from being thereby reduced to less than that amount.

(b) Additional payments; authorization of additional appropriations

(1) If the payment to a State under section 731(a) of this title for a fiscal year is less than the total payments such State received under section 2 of the Vocational Rehabilitation Act for the fiscal year ending June 30, 1973, such State shall be entitled to an additional payment (subject to the same terms and conditions applicable to other payments under this part) equal to the difference between such payment under section 731(a) of this title and the amount so received by it.

(2) If a State receives as its Federal share under section 731(a) of this title for any fiscal year, as a result of the maintenance of effort provisions of such section, less than 80 percent of the expenditure of such State for vocational rehabilitation services under the plan for such State approved under section 721 of this title (including any amount expended by such State for the administration of the State plan but excluding any amount expended by such State from non-Federal sources for construction under such plan), such State shall be entitled to an additional payment for such fiscal year, subject to the same terms and conditions applicable to other payments under this part, equal to the difference between such payment under section 731(a) of this title and an amount equal to 80 percent of such expenditure for vocational rehabilitation services.

(3) Any payment attributable to the additional payment to a State under this subsection shall be made only from appropriations specifically made to carry out this subsection, and such additional appropriations are hereby authorized.

(c) Unused funds; redistribution; increase in amount

Whenever the Commissioner determines, after reasonable opportunity for the submission to him of comments by the State agency administering or supervising the program established under this subchapter that any payment of an allotment to a State under section 731(a) of this title for any fiscal year will not be utilized by such State in carrying out the purposes of this subchapter, he shall make such amount available for carrying out the purposes of this subchapter to one or more other States to the extent he determines such other State will be able to use such additional amount during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this part, be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

(As amended Pub. L. 95–602, title I, §§ 101(c), (d), 122(b)(1), Nov. 6, 1978, 92 Stat. 2956, 2957, 2987.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–602, § 101(c), substituted provision establishing a computation formula for State allotments for fiscal years beginning before Oct. 1, 1978 and for fiscal years beginning on or after Oct. 1, 1978 for provision establishing a computation formula for each fiscal year, added a provision establishing a formula for additional amounts, excluded the Northern Mariana Islands from consideration for adjustments, and increased minimum amount of adjustment to $3,000,000.

Subsec. (b). Pub. L. 95–602, § 101(d), designated existing provision as par. (1), and in par. (1) as so designated, struck out provision requiring payments attributable to the additional payment under this subsection to be made only from appropriations specifically made to carry out this subsection and such additional appropriations as authorized, and added pars. (2) and (3).

Subsec. (c). Pub. L. 95–602, § 122(b)(1), substituted "Commissioner" for "Secretary".

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 731, 750 of this title.

§ 731. Payments to States

(a) Amount

From each State's allotment under this part for any fiscal year (including any additional payment to it under section 730(b) of this title), the Commissioner shall pay to such State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for such State approved under section 721 of this title, including expenditures for the administration of the State plan, except that the total of such payments to such State for such fiscal year may not exceed its allotment under subsection (a) (and its additional payment under subsection (b), if any) of section 730 of this title for such year and such payments shall not be made in an amount which would result in a violation of the provisions of the State plan required by clause (17) of section 721(a) of this title and except that the amount otherwise payable to such State for such year under this section shall be reduced by the amount (if any) by which expenditures from non-Federal sources during such year under this subchapter are less than expenditures under the State plan for the fiscal year ending June 30, 1972, under the Vocational Rehabilitation Act.

(b) Method of computation and payment

The method of computing and paying amounts pursuant to subsection (a) of this section shall be as follows:

(1) The Commissioner shall, prior to the beginning of each calendar quarter or other period prescribed by him, estimate the amount to be paid to each State under the provisions of such subsection for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation, as the Commissioner may find necessary.

(2) The Commissioner shall pay, from the allotment available therefor, the amount so estimated by him for such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which he finds that his estimate of the amount

to be paid the State for any prior period under such subsection was greater or less than the amount which should have been paid to the State for such prior period under such subsection. Such payment shall be made prior to audit or settlement by the General Accounting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be in such installments as the Commissioner may determine.

(As amended Pub. L. 95-602, title I, § 122(b)(1), Nov. 6, 1978, 92 Stat. 2987.)

AMENDMENTS

1978—Pub. L. 95-602 substituted "Commissioner" for "Secretary" wherever appearing.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 732. Client assistance

(a) Amount of assistance for regional pilot projects; duties of counselors

From funds appropriated under section 777 of this title for special projects and demonstrations in excess of $11,860,000 the Commissioner shall set aside no less than $3,500,000 for the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years, to establish in geographically dispersed regions client assistance pilot projects (hereinafter in this section referred to as "projects") to provide counselors to inform and advise all clients and client applicants in the project area of all available benefits under this chapter and, upon requests of such client or client applicant, to assist such clients or applicants in their relationships with projects, programs, and facilities providing services to them under this chapter, including assistance in pursuing legal, administrative, or other appropriate remedies to insure the protection of the rights of such individuals under this chapter. In the event that funds so appropriated under section 777 of this title do not exceed $11,860,000 in any fiscal year, the Commissioner is authorized to utilize such funds to carry out this section.

(b) Regulations; requirements

The Commissioner shall prescribe regulations which shall include the following requirements:

[*See main edition for text of (1) and (2)*]

(3) Annual reports; summary of accomplishments; statistical tabulation of cases; submittal to Congressional committees

The project shall submit an annual report, through the State agency designated pursuant to section 721 of this title, to the Commissioner on the operation of the project during the previous year, including a summary of the work done and a uniform statistical tabulation of all cases handled by such project. A copy of each such report shall be submitted to the appropriate committees of the Congress by the Commissioner, together with a summary of such reports and his evaluation of such projects, including appropriate recommendations.

[*See main edition for text of (4) to (6)*]

(As amended Pub. L. 95-602, title I, §§ 105, 122(b)(1), Nov. 6, 1978, 92 Stat. 2960, 2987.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-602, §§ 105, 122(b)(1), substituted "section 777 of this title" for "section 774 of this title" in two places, "Commissioner" for "Secretary" wherever appearing, and "no less than $3,500,000 for the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years, to establish in geographically dispersed regions" for "up to $1,500,000, but no less than $500,000 for the fiscal year ending June 30, 1974, up to $2,500,000 but no less than $1,000,000 for the fiscal year ending June 30, 1975, up to $2,500,000 but no less than $1,000,000 for the fiscal year ending June 30, 1976, up to $2,500,000 but no less than $1,000,000 for the fiscal year ending September 30, 1977, and up to $2,500,000 but no less than $1,000,000 for the fiscal year ending September 30, 1978, to establish in no less than 7 nor more than 20 geographically dispersed regions" and inserted ", including assistance in pursuing legal, administrative, or other appropriate remedies to insure the protection of the rights of such individuals under this chapter" following "them under this chapter".

Subsec. (b). Pub. L. 95-602, § 122(b)(1), substituted "Commissioner" for "Secretary" wherever appearing.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

PART C—INNOVATION AND EXPANSION GRANTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 706 of this title.

§ 740. State allotments

(a) Computation; minimum amount; adjustments

(1)[1] From the sums available pursuant to section 720(b)(2) of this title for any fiscal year for grants to States to assist them in meeting the costs described in section 741 of this title, each State shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all the States. The allotment to any State under the preceding sentence for any fiscal year which is less than $50,000 shall be increased to that amount, and for the fiscal year ending June 30, 1974, no State shall receive less than the amount necessary to cover up to 90 per centum of the cost of continuing projects assisted under section 4(a)(2)(A) of the Vocational Rehabilitation Act [29 U.S.C. 34(a)(2)(A)], except that no such project may receive financial assistance under both the Vocational Rehabilitation Act [29 U.S.C. 31 et seq.] and this chapter for a total period of time in excess of five years. The total of the increase required by the preceding sentence shall be derived by proportionately reducing the allot-

[1] So in original. There is no paragraph (2).

ments to each of the remaining States under the first sentence of this section, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from thereby being reduced to less than $50,000.

(b) Unused funds; redistribution; increase in amount

Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this section, he shall make such amount available for carrying out the purposes of this section to one or more other States which he determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for purposes of this part, be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

(As amended Pub. L. 95–602, title I, §§ 101(e)(1), 122(b)(1), Nov. 6, 1978, 92 Stat. 2957, 2987.)

AMENDMENTS

1978—Subsec. (a)(1). Pub. L. 95–602, § 101(e)(1), substituted "five years" for "three years".

Subsec. (b). Pub. L. 95–602, § 122(b)(1), substituted "Commissioner" for "Secretary".

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 720 of this title.

§ 741. Payments to States

(a) Cost of planning, preparing for, and initiating special programs; construction of facilities; prior approval of Commissioner or State agency for certain expenditures

From each State's allotment under this part for any fiscal year, the Commissioner shall pay to such State or, at the option of the State agency designated pursuant to section 721(a)(1) of this title, to a public or nonprofit organization or agency, a portion of the cost of planning, preparing for, and initiating special programs under the State plan approved pursuant to section 721 of this title to expand vocational rehabilitation services, including programs to initiate or expand such services to individuals with the most severe handicaps, or of special programs under such State plan to initiate or expand services to classes of handicapped individuals who have unusual and difficult problems in connection with their rehabilitation, particularly handicapped individuals who are poor, and responsibility for whose treatment, education, and rehabilitation is shared by the State agency designated in section 721 of this title with other agencies. Payments may also be made under this section for the costs of the construction of facilities to be used in providing services under such State plan if provision for such construction is included in such State plan. The Commissioner may require that any portion of a State's allotment under this section, but not more than 50 per centum of such allotment, may be expended in connection with only such projects as have first been approved by the Commissioner. Any grant of funds under this section which will be used for direct services to handicapped individuals or for establishing or maintaining facilities which will render direct services to such individuals must have the prior approval of the appropriate State agency designated pursuant to section 721 of this title.

(b) Duration; period of availability; limitation; non-Federal share

Payments under this section with respect to any project may be made for a period of not to exceed three years beginning with the commencement of the project as approved, and sums appropriated for grants under this section shall remain available for such grants through the fiscal year ending September 30, 1982. Payments with respect to any project may not exceed 90 per centum of the cost of such project. The non-Federal share of the cost of a project may be in cash or in kind and may include funds spent for project purposes by a cooperating public or nonprofit agency provided that it is not included as a cost in any other federally financed program.

(c) Advances; reimbursement; conditions

Payments under this section may be made in advance or by way of reimbursement for services performed and purchases made, as may be determined by the Commissioner, and shall be made on such conditions as the Commissioner finds necessary to carry out the purposes of this section.

(As amended Pub. L. 95–602, title I, §§ 101(e)(2), 122(b), Nov. 6, 1978, 92 Stat. 2957, 2987.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–602, § 122(b), substituted "Commissioner" for "Secretary" wherever appearing and inserted provision permitting payments to be made for construction costs if provision for such construction is included in the State plan.

Subsec. (b). Pub. L. 95–602, § 101(e)(2), substituted "September 30, 1982" for "September 30, 1979".

Subsec. (c). Pub. L. 95–602, § 122(b)(1), substituted "Commissioner" for "Secretary" wherever appearing.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES [NEW]

§ 750. Vocational rehabilitation services grants

(a) Governing bodies of Indian tribes; amount

The Commissioner, in accordance with the provisions of this part, may make grants to the governing bodies of Indian tribes located on Federal and State reservations to pay 90 percent of the costs of vocational rehabilitation services for handicapped American Indians residing on such reservations.

(b) Application; effective period

(1) No grant may be made under this part for any fiscal year unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless the application—

(A) is made at such time, in such manner, and contains such information as the Commissioner may require;

(B) contains assurances that the rehabilitation services provided under this part to handicapped American Indians residing on a reservation in a State shall be, to the maximum extent feasible, comparable to rehabilitation services provided under this subchapter to other handicapped individuals residing in the State; and

(C) contains assurances that the application was developed in consultation with the designated State unit of the State.

(2) The provisions of sections 450c, 450d, 450e, and 450f(a) of title 25 shall be applicable to any application submitted under this part. For purposes of this paragraph, any reference in any such provision to the Secretary of Health, Education, and Welfare or to the Secretary of the Interior shall be considered to be a reference to the Commissioner.

(3) Any application approved under this part shall be effective for not less than twelve months except as determined otherwise by the Commissioner pursuant to prescribed regulations. The State shall continue to provide vocational rehabilitation services under its State plan to American Indians residing on a reservation whenever such State includes any such American Indians in its State population under section 730(a)(1) of this title.

(c) Computation of State allotment

For the purpose of computing the allotment of any State under section 730(a) of this title, the number of American Indians residing on a reservation to be served by a grant under this part shall be subtracted from the population used for such State in section 730(a)(1) of this title as follows:

(1) 33 percent of such American Indians in the first fiscal year during which such Indians are served by grants under this part;

(2) 66 percent of such American Indians in the second fiscal year during which such Indians are served by grants under this part; and

(3) 100 percent of such American Indians in the third fiscal year during which such Indians are served by grants under this part.

(d) Definition

The term "reservation" includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.].

(As amended Pub. L. 95-602, title I, § 106, Nov. 6, 1978, 92 Stat. 2961.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in subsec. (d), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

CODIFICATION

As originally enacted subsecs. (c) and (d) of this section were designated as subsecs. (d) and (e), but for purposes of codification were editorially redesignated as subsecs. (c) and (d) to reflect the probable intent of Congress.

AMENDMENTS

1978—Pub. L. 95-602 substituted provisions authorizing vocational rehabilitation services grants to handicapped American Indians for provisions for related to a study of comprehensive service needs of individuals with the most severe handicaps.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 721 of this title.

§ 751. Evaluation of programs

Not less than thirty months after November 6, 1978, the Secretary shall submit to the Congress an evaluation of the programs conducted under this part. Such evaluation shall be conducted by persons other than persons immediately responsible for administration of such programs. Such evaluation shall include—

(1) an examination of the comparability of vocational rehabilitation services provided under this part to services provided to other handicapped individuals under section 721 of this title; and

(2) An[1] assessment of the extent to which governing bodies of Indian tribes receiving grants under this part have made services under such grants available to all handicapped American Indians residing on reservations served by such grants.

(Pub. L. 93-112, title I, § 131, as added Pub. L. 95-602, title I, § 106, Nov. 6, 1978, 92 Stat. 2961.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SUBCHAPTER II—RESEARCH AND TRAINING

§ 760. Congressional declaration of purpose

The purpose of this subchapter is to—

(1) provide for a comprehensive and coordinated approach to the administration and conduct of research, demonstration projects, and related activities for the rehabilitation of handicapped individuals, including programs

[1] So in original. Probably should be "an".

designed to train persons who provide rehabilitation services and persons who conduct research, by authorizing Federal assistance in accordance with a plan for rehabilitation research developed under this subchapter;

(2) facilitate the distribution of information concerning developments in rehabilitation procedures, methods, and devices to rehabilitation professionals and to handicapped individuals to assist such individuals to live more independently;

(3) improve the distribution of technological devices and equipment for handicapped individuals by providing financial support for the development and distribution of such devices and equipment; and

(4) increase the scientific and technological information presently available in the field of rehabilitation.

(As amended Pub. L. 95-602, title I, § 107, Nov. 6, 1978, 92 Stat. 2962.)

AMENDMENTS

1978—Pub. L. 95-602 substituted provision declaring that the purpose of this subchapter is to develop a coordinated and comprehensive approach to rehabilitation and training, to facilitate the distribution of information concerning development in the rehabilitation field, to improve distribution of technological devices and equipment, and to increase scientific and technological information for provision declaring the purpose of this subchapter is to authorize Federal assistance to State and public or nonprofit agencies to plan and conduct research and related activities in the rehabilitation field and to plan and conduct courses of training and related activities designed to increase the number of trained personnel and the level of their skills.

§ 761. Authorization of appropriations

(a) There are authorized to be appropriated—

(1) for the purpose of providing for the expenses of the National Institute of Handicapped Research under section 761a of this title, other than expenses to carry out section 762 of this title, such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years; and

(2) for the purpose of carrying out section 762 of this title, $50,000,000 for the fiscal year ending September 30, 1979, $75,000,000 for the fiscal year ending September 30, 1980, $90,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982.

(b) Funds appropriated under this subchapter shall remain available until expended.

(As amended Pub. L. 95-602, title I, § 108, Nov. 6, 1978, 92 Stat. 2962.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-602 substituted provision authorizing appropriation of sums as may be necessary for the fiscal year ending Sept. 30, 1979 and the three succeeding fiscal years, for expenses of the National Institute of Handicapped Research, other than expenses for research, and for the expenses for research, $50,000,000 for the fiscal year ending Sept. 30, 1979, $75,000,000 for the fiscal year ending Sept. 30, 1980, $90,000,000 for the fiscal year ending Sept. 30, 1981, and $100,000,000 for the fiscal year ending Sept. 30, 1982 for provision authorizing appropriations for research of $25,000,000 for each of the fiscal years ending June 30, 1974 and June 30, 1975, $32,000,000 for the fiscal year ending June 30, 1976, and $30,000,000 for each of the fiscal years ending Sept. 30, 1977 and Sept. 30, 1978, with certain spending requirements for the establishment of rehabilitation engineering research centers, and for training, $27,700,000 for each of the fiscal years ending June 30, 1974 and June 30, 1975, $32,000,000 for the fiscal year ending June 30, 1976, $25,000,000 for the fiscal year ending Sept. 30, 1977, and $30,000,000 for the fiscal year ending Sept. 30, 1978.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 761a of this title.

§ 761a. National Institute of Handicapped Research

(a) Establishment; Director as principal officer

In order to promote and coordinate research with respect to handicapped individuals and to more effectively carry out the programs under section 762 of this title, there is established within the Department of Health, Education, and Welfare a National Institute of Handicapped Research (hereinafter in this subchapter referred to as the "Institute"), which shall be headed by a Director (hereinafter in this subchapter referred to as the "Director"). In the performance of his functions, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Health, Education, and Welfare to whom the Commissioner is responsible under section 702(a) of this title.

(b) Duties of Director

The Director, through the Institute, shall be responsible for—

(1) administering the programs described in section 762 of this title,

(2) disseminating information acquired through research funded by the Institute to other Federal, State, and local public agencies and to private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

(3) coordinating, through the Interagency Committee established by section 761b of this title, all Federal programs and policies relating to research in rehabilitation;

(4) disseminating educational materials to primary and secondary schools, institutions of higher education, and to public and private entities concerning how the quality of life of handicapped individuals may be improved;

(5) conducting an education program to inform the public about ways of providing for the rehabilitation of handicapped individuals, including information relating to family care and self care;

(6) conducting conferences, seminars, and workshops (including in-service training pro-

grams) concerning research and engineering advances in rehabilitation pertinent to the problems of handicapped individuals;

(7) taking whatever action is necessary to keep the Congress fully and currently informed with respect to the implementation and conduct of programs and activities carried out under this subchapter; and

(8) producing, in conjunction with the Department of Labor, the National Center for Health Statistics, the Bureau of the Census, the Social Security Administration, and other Federal departments and agencies, as may be appropriate, statistical reports and studies on the employment, health, income, and other demographic characteristics of handicapped individuals and disseminating such reports and studies to rehabilitation professionals and others to assist in the planning and evaluation of vocational and other rehabilitation services for the handicapped.

(c) Appointment of Director; Deputy Director; employment of technical and professional personnel; consultants

(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title 5. In carrying out any of his functions under this section, the Director shall be guided by general policies of the National Council on the Handicapped established in subchapter IV of this chapter. The Director shall not delegate any of his functions to any officer who is not directly responsible to him.

(2) There shall be a Deputy Director of the Institute (hereinafter in this section referred to as the "Deputy Director") who shall be appointed by the Secretary. The Deputy Director shall be compensated at the rate provided for grade GS–17 of the General Schedule under section 5332 of title 5, and shall act for the Director during the absence or disability of the Director, exercising such powers as the Director may prescribe. In the case of any vacancy in the office of the Director, the Deputy Director shall serve as Director until a Director is appointed under paragraph (1). The position created by this paragraph shall be in addition to the number of positions placed in grade GS–17 of the General Schedule under section 5108 of title 5.

(3) The Director, subject to the approval of the President, may appoint, for terms not to exceed three years, without regard to the provisions of title 5 governing appointment in the competitive service, and may compensate, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as the Director deems ncessary[1] to accomplish the functions of the Institute and also appoint and compensate without regard to such provisions in a number not to exceed one-fifth of the number of full-time, regular technical and professional employees of the Institute.

(4) The Director may obtain the services of consultants, without regard to the provisions of title 5 governing appointments in the competitive service.

(d) Fellowships

The Director, pursuant to regulations which the Secretary shall prescribe, may establish and maintain fellowships with such stipends and allowances, including travel and subsistence expenses provided for under title 5, as the Director considers necessary to procure the assistance of highly qualified research fellows from the United States and foreign countries.

(e) Scientific review of research grants and programs; peer review group

The Director shall, pursuant to regulations which the Secretary shall prescribe, provide for scientific review of all research grants and programs over which he has authority by utilizing, to the maximum extent possible, appropriate peer review groups established within the Institute and composed of non-Federal scientists and other experts in the rehabilitation field.

(f) Grants or contracts with qualified public or private agencies and individuals

Not less than 90 percent of the funds appropriated under paragraph (2) of section 761(a) of this title to carry out section 762 of this title shall be expended by the Director to carry out such section through grants or contracts with qualified public or private agencies and individuals.

(g) Report to Congress; long-range plan for rehabilitation research; review

The Director shall develop and submit to appropriate committees of the Congress within eighteen months after November 6, 1978, a long-range plan for rehabilitation research which shall—

(1) identify any research which should be conducted respecting the problems encountered by handicapped individuals in their daily activities, especially problems related to employment;

(2) determine the funding priorities for research activities under this section and explain the basis for such priorities, including a detailed description of any new types of research recommended under this paragraph for funding; and

(3) specify appropriate goals and timetables for activities to be conducted under this section.

The plan required by this subsection shall be developed by the Director in consultation with the Commissioner, the National Council on the Handicapped established under subchapter IV of this chapter, the Commissioner of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. 6000 et seq.], the Interagency Committee established by section 761b of this title, and any other persons or entities the Director considers appropriate. Such plan shall be reviewed at least once every three years and may be revised at any time by the Director to the extent he considers necessary.

[1] So in original. Probably should be "necessary".

(h) Cooperation and consultation with other agencies and departments on design of research programs

In order to promote cooperation among Federal departments and agencies conducting research programs, the Director shall consult with the administrators of such programs, and with the Interagency Committee established by section 761b of this title, regarding the design of research projects conducted by such entities and the results and applications of such research.

(i) Comprehensive and coordinated research program; interagency cooperation

(1) The Director shall take whatever actions he considers appropriate to provide for a comprehensive and coordinated research program under this subchapter. In providing such a program, the Director may undertake joint activities with other Federal entities engaged in research and with appropriate private entities. Any Federal entity proposing to establish any research project related to the purposes of this chapter shall consult, through the Interagency Committee established by section 761b of this title, with the Director in his role of Chairman of such Committee and provide the Director with sufficient prior opportunity to comment on such project.

(2) Any person responsible for administering any program of the National Institutes of Health, the Veterans' Administration, the National Science Foundation, the National Aeronautics and Space Administration, the Bureau of Education for the Handicapped, or of any other Federal entity, shall, through the Interagency Committee established by section 761b of this title, consult and cooperate with the Director in carrying out such program if the program is related to the purposes of this section.

(Pub. L. 93-112, title II, § 202, as added Pub. L. 95-602, title I, § 109(4), Nov. 6, 1978, 92 Stat. 2963.)

REFERENCES IN TEXT

The provisions of title 5 governing appointment in the competitive service, referred to in subsec. (c)(3), (4), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The Developmental Disabilities Assistance and Bill of Rights Act, referred to in subsec. (g), is title I of Pub. L. 88-164, as added by Pub. L. 94-103, Oct. 4, 1975, 89 Stat. 496, and amended, which is classified generally to chapter 75 (§ 6000 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6000 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 202 of Pub. L. 93-112, title II, Sept. 26, 1973, 87 Stat. 375, was classified to section 762 of this title prior to its renumbering as section 204 of Pub. L. 93-112.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 761 of this title.

§ 761b. Interagency Committee

(a) Establishment; membership; meetings

(1) In order to promote coordination and cooperation among Federal departments and agencies conducting rehabilitation research programs, there is established within the Federal Government an Interagency Committee on Handicapped Research (hereinafter in this section referred to as the "Committee"), chaired by the Director and comprised of such members as the President may designate, including the following (or their designees): the Director, the Commissioner, the Commissioner of Education, the Administrator of Veterans' Affairs, the Director of the National Institutes of Health, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, and the Director of the National Science Foundation.

(2) The Committee shall meet not less than four times each year.

(b) Duties

The Committee shall identify, assess, and seek to coordinate all Federal programs, activities, and projects, and plans for such programs, activities, and projects with respect to the conduct of research related to rehabilitation of handicapped individuals.

(c) Annual report to Congress

The Committee, not later than eighteen months after November 6, 1978, and annually thereafter, shall submit to the President and to the appropriate committees of the Congress a report making such recommendations as the Committee deems appropriate with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to the conduct of research related to rehabilitation of handicapped individuals.

(Pub. L. 93-112, title II, § 203, as added Pub. L. 95-602, title I, § 109(4), Nov. 6, 1978, 92 Stat. 2965.)

AMENDMENT OF SUBSECTION (a)(1)

Pub. L. 96-88, title V, § 508(m)(1), title VI, § 601(a), Oct. 17, 1979, 93 Stat. 694, 696, provided that, effective 180 days after the first Secretary of Education takes office, or on any earlier date on or after Oct. 1, 1979, as the President prescribes and publishes in the Federal Register, subsec. (a)(1) of this section is amended by substituting "Secretary of Education" for "Commissioner, the Commissioner of Education".

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 761a of this title.

§ 762. Research

(a) Federal grants and contracts for certain research projects and related activities

The Director may make grants to and contracts with States and public or private agencies and organizations, including institutions of higher education, to pay part of the cost of projects for the purpose of planning and conducting research, demonstrations, and related activities which bear directly on the development of methods, procedures, and devices to assist in the provision of vocational and other rehabilitation services to handicapped individuals, especially those with the most severe handicaps, under this chapter. Such projects may include medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques, including basic research where related to rehabilitation techniques or services; studies and analyses of industrial, vocational, social, psychiatric, psychological, economic, and other factors affecting rehabilitation of handicapped individuals; special problems of homebound and institutionalized individuals; studies analyses, and demonstrations of architectural and engineering design adapted to meet the special needs of handicapped individuals; and related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of handicapped individuals and individuals with the most severe handicaps.

(b) Federal grants for specialized research activities

In addition to carrying out projects under subsection (a) of this section, the Director may make grants to pay part or all of the cost of the following specialized research activities:

(1) Rehabilitation Research and Training Centers; establishment; purpose; areas of research

Establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education for the purpose of (A) providing training (including graduate training) to assist individuals to more effectively provide rehabilitation services, (B) providing coordinated and advanced programs of research in rehabilitation, and (C) providing training (including graduate training) for rehabilitation research and other rehabilitation personnel. The research to be carried out at each Center shall be determined on the basis of the particular needs of handicapped individuals in the geographic area served by the Center, and may include basic or applied medical rehabilitation research, research regarding the psychological and social aspects of rehabilitation, and research related to vocational rehabilitation. The Centers shall be encouraged to develop practical applications for the findings of their research. Grants may include funds for services rendered by such a center to handicapped individuals in connection with such research and training activities.

(2) Rehabilitation Engineering Research Centers; establishment

Establishment and support of Rehabilitation Engineering Research Centers to (A) develop innovative methods of applying advanced medical technology, scientific achievement, and psychiatric, psychological and social knowledge to solve rehabilitation problems through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, equipment, and devices suitable for solving problems in the rehabilitation of handicapped individuals and for reducing environmental barriers, and to (B) cooperate with State agencies designated pursuant to section 721 of this title in developing systems of information exchange and coordination to promote the prompt utilization of engineering and other scientific research to assist in solving problems in the rehabilitation of handicapped individuals.

[*See main edition for text of (3) to (5)*]

(6) Telecommunications systems

Conduct of a research program concerning the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programing to meet the particular needs of handicapped individuals.

(7) Joint projects

Conduct of a program of joint projects with the National Institutes of Health, the Health Services Administration, the Administration on Aging, the National Science Foundation, the Veterans' Administration, the Office of Education, the National Aeronautics and Space Administration, other Federal agencies, and private industry in areas of joint interest involving rehabilitation.

(8) Rehabilitation of handicapped children and handicapped elderly

Conduct of a program of research related to the rehabilitation of handicapped children and of handicapped individuals who are aged sixty or older.

(9) Attraction and retention of professionals to serve in rural areas

Conduct of a research program to develop and demonstrate innovative methods to attract and retain professionals to serve in rural areas in the rehabilitation of handicapped and severely handicapped individuals.

(10) Feasibility of establishing center for production and distribution of captioned video cassettes to deaf individuals

Conduct of a model research and demonstration project designed to assess the feasibility of establishing a center for producing and distributing to deaf individuals captioned video cassettes providing a broad range of educational, cultural, scientific, and vocational programing.

(11) Services for preschool age handicapped children

Conduct of a model research and demonstration program to develop innovative methods of providing services for preschool age handicapped children, including the following: (A) early intervention, parent counseling, infant stimulation, early identification, diagnosis, and evaluation of severely handicapped children up to the age of five, with a special emphasis on severely handicapped children up to the age of three; (B) such physical therapy, language development, pediatric, nursing, and psychiatric services as are necessary for such children; and (C) appropriate services for the parents of such children, including psychiatric services, parent counseling, and training.

(12) Establishment of model training centers; evaluation and development of employment potential of handicapped; programs

Conduct of a model research and training program under which model training centers shall be established to develop and use more advanced and effective methods of evaluating and developing the employment potential of handicapped individuals, including programs which—

(A) provide training and continuing education for personnel involved with the employment of handicapped individuals;

(B) develop model procedures for testing and evaluating the employment potential of handicapped individuals;

(C) develop model training programs to teach handicapped individuals skills which will lead to appropriate employment;

(D) develop new approaches for job placement of handicapped individuals, including new followup procedures relating to such placement; and

(E) provide information services regarding education, training, employment, and job placement for handicapped individuals.

[*See main edition for text of* (c)]

(Pub. L. 93-112, title II, § 204, formerly § 202, Sept. 26, 1973, 87 Stat. 375, amended Pub. L. 93-516, title I, § 111(h), Dec. 7, 1974, 88 Stat. 1621; Pub. L. 93-651, title I, § 111(h), 88 Stat. 1621, renumbered and amended Pub. L. 95-602, §§ 109(3), 110, 111, Nov. 6, 1978, 92 Stat. 2963, 2966.)

PRIOR PROVISIONS

A prior section 204 of Pub. L. 93-112, title II, Sept. 26, 1973, 87 Stat. 376, was classified to section 764 of this title prior to its repeal by Pub. L. 95-602.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-602, § 110, substituted "The Director may" for "The Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to", "public or private" for "public or nonprofit", and "provision of vocational and other rehabilitation services" for "provision of vocational rehabilitation services" and inserted ", including basic research where related to rehabilitation techniques or services" following "restorative techniques" and ", psychiatric" following "social".

Subsec. (b). Pub. L. 95-602, § 111, substituted in provision preceding par. (1), "the Director may" for "the Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to", inserted in par. (1), provision authorizing determination of research to be based on the particular needs of handicapped individuals in the geographic area served by the Center and specifying types of research which may be included, substituted in par. (2)(A), "psychiatric, psychological" for "psychological", and added pars. (6) to (12).

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 761, 761a of this title; title 38 sections 1904, 4101.

§ 762a. Research and demonstration projects

(a) Multiple and interrelated service needs of handicapped individuals; report to Congress

The Secretary of Health, Education, and Welfare is authorized to make grants to, and to enter into contract with, public and nonprofit agencies and organizations for the purpose of research and demonstration projects specifically designed to address the multiple and interrelated service needs of handicapped individuals, the elderly, and children, youths, adults, and families. A report evaluating each project funded under this section shall be submitted to appropriate committees of the Congress within four months after the date each such project is completed.

(b) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary.

No funds other than those appropriated pursuant to this subsection can be used for the conduct of research specifically authorized by this section.

(c) Study on impact of vocational rehabilitation services; transmittal to Congress

Within one year after the date appropriations are made under subsection (b) of this section for purposes of research and demonstration projects under subsection (a) of this section, the Secretary shall prepare and transmit to the Congress a study concerning the impact of vocational rehabilitation services provided under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.] on recipients of disability payments under titles II and XVI of the Social Security Act [42 U.S.C. 401 et seq., 1381 et seq.]. The study shall examine the relationship between the vocational rehabilitation services provided under the Rehabilitation Act of 1973 and the programs under sections 222 and 1615 of the Social Security Act [42 U.S.C. 422, 1382d], and shall include—

(1) an analysis of the savings in disability benefit payments under titles II and XVI of the Social Security Act as a result of the pro-

vision of vocational rehabilitation services under the Rehabilitation Act of 1973;

(2) a specification of the rate of return to the active labor force by recipients of services under sections 222 and 1615 of the Social Security Act;

(3) a specification of the total amount of expenditures, in the five fiscal years preceding the date of submission of the report, for vocational rehabilitation services under the Rehabilitation Act of 1973 and under sections 222 and 1615 of the Social Security Act, and recommendations for the coordinated presentation of such expenditures in the Budget submitted by the President pursuant to section 11 of title 31;

(4) recommendations to improve the coordination of services under the Rehabilitation Act of 1973 with programs under sections 222 and 1615 of the Social Security Act, including recommendations for increasing savings in disability benefits payments and the rate of return to the active labor force by recipients of services under sections 222 and 1615 of the Social Security Act.

(Pub. L. 95–602, title IV, § 401, Nov. 6, 1978, 92 Stat. 3002.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in subsec. (c), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified principally to this chapter (§ 701 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

The Social Security Act, referred to in subsec. (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles II and XVI of the Social Security Act are classified generally to subchapters II (§ 401 et seq.) and XVI (§ 1381 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

CODIFICATION

Section was enacted as part of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, and not as part of Rehabilitation Act of 1973 which comprises this chapter.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education and redesignation of the Secretary of Health, Education, and Welfare as the Secretary of Health and Human Services, see sections 3441 and 3508 of Title 20, Education.

§ 763. Transferred

CODIFICATION

Section, Pub. L. 93–112, title II, § 203, Sept. 26, 1973, 87 Stat. 376, relating to the making of grants and contracts for the training of personnel involved in vocational services to handicapped individuals, was redesignated as section 304 of Pub. L. 93–112 and transferred to section 774 of this title.

§ 764. Repealed. Pub. L. 95–602, title I, § 109(3), Nov. 6, 1978, 92 Stat. 2963

Section, Pub. L. 93–112, title II, § 204, Sept. 26, 1973, 87 Stat. 376, provided that a full report on research and training activities be included in the annual report to Congress.

SUBCHAPTER III—SPECIAL FEDERAL RESPONSIBILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 706 of this title.

PART A—CONSTRUCTION AND TRAINING PROGRAMS

§ 770. Congressional declaration of purpose

The purpose of this subchapter is to—

(1) authorize grants and contracts to assist in the construction and initial staffing of rehabilitation facilities and authorize such staffing as the Commissioner deems appropriate;

[*See main edition for text of (2) and (3)*]

(4) establish uniform grant and contract requirements for programs assisted under this subchapter and certain other provisions of this chapter.

(5) Renumbered (4).

(As amended Pub. L. 95–602, title I, § 122(c)(1), Nov. 6, 1978, 92 Stat. 2987.)

AMENDMENTS

1978—Par. (1). Pub. L. 95–602, § 122(c)(1)(A), inserted "and authorize such staffing as the Commissioner deems appropriate" following "facilities".

Par. (4). Pub. L. 95–602, § 122(c)(1)(B), (C), redesignated former par. (5) as (4). Former par. (4), which declared as one of the purposes of this subchapter the establishment and operation of a National Center for Deaf-Blind Youths and Adults, was struck out.

Par. (5). Pub. L. 95–602, § 122(c)(1)(C), redesignated former par. (5) as (4).

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 771. Grants for construction of rehabilitation facilities, staffing, and planning assistance

(a) Authorization of appropriations; period of availability of moneys

For the purpose of making grants and contracts under this section for construction of rehabilitation facilities, staffing, and planning assistance, there is authorized to be appropriated such sums as may be necessary for each fiscal year ending before October 1, 1982. Amounts so appropriated shall remain available for expenditure with respect to construction projects funded or staffing grants made under this section prior to October 1, 1983.

(b) Rehabilitation facilities construction grants; applications for assistance; general grant and contract requirements applicable; amount

(1) The Commissioner is authorized to make grants to assist in meeting the costs of construction of public or nonprofit rehabilitation facilities. Such grants may be made to States and public or nonprofit organizations and agen-

cies for projects for which applications are approved by the Commissioner under this section.

(2) To be approved, an application for a grant for a construction project under this section must conform to the provisions of section 776 of this title.

(3) The amount of a grant under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share which is applicable in the case of rehabilitation facilities (as defined in section 291o(g) of title 42), in such State, except that if the Federal share with respect to rehabilitation facilities in such State is determined pursuant to subsection (b)(2) of section 291o of title 42, the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Commissioner designed to achieve as nearly as practicable results comparable to the results obtained under such subparagraph.

(c) Staffing grants; amount

The Commissioner is also authorized to make grants to assist in the staffing of any public or nonprofit rehabilitation facility constructed after September 26, 1973 (whether or not such construction was financed with the aid of a grant under this section) by covering part of the costs (determined in accordance with regulations the Commissioner shall prescribe) of compensation of professional or technical personnel of such facility during the period beginning with the commencement of the operation of such facility and ending with the close of four years and three months after the month in which such operation commenced. Such grants with respect to any facility may not exceed 75 per centum of such costs for the period ending with the close of the fifteenth month following the month in which such operation commenced, 60 per centum of such costs for the first year thereafter, 45 per centum of such costs for the second year thereafter, and 30 per centum of such costs for the third year thereafter.

(d) Planning grants

The Commissioner is also authorized to make grants upon application approved by the State agency designated under section 721 of this title to administer the State plan, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the cost of planning rehabilitation facilities and the services to be provided by such facilities.

(As amended Pub. L. 95-602, title I, §§ 112(a), 122(c)(2), Nov. 6, 1978, 92 Stat. 2967, 2987.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-602, §§ 112(a), 122(c)(2), substituted "staffing" for "initial staffing" in two places, "for each fiscal year ending before October 1, 1982" for "for the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, September 30, 1977, and September 30, 1978", and "October 1, 1983" for "October 1, 1980".

Subsec. (b). Pub. L. 95-602, § 122(c)(2), substituted "Commissioner" for "Secretary" wherever appearing.

Subsec. (c). Pub. L. 95-602, § 122(c)(2), substituted "Commissioner" for "Secretary" in two places and "staffing" for "initial staffing".

Subsec. (d). Pub. L. 95-602, § 122(c)(2), substituted "Commissioner" for "Secretary".

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 772. Vocational training services for handicapped individuals

(a) Authorization of appropriations

For the purpose of making grants and entering into contracts under this section, there are authorized to be appropriated such sums as may be necessary for each fiscal year ending before October 1, 1982.

(b) Grants; authority of Commissioner; individual allowances: factors and limitations; conditions

(1) The Commissioner is authorized to make grants to States and public or nonprofit organizations and agencies to pay up to 90 per centum of the cost of projects for providing vocational training services to handicapped individuals, especially those with the most severe handicaps, in public or nonprofit rehabilitation facilities.

(2) [*See main edition for text of (A)*]

(B) Such allowances may not be paid to any individual for any period in excess of two years, and such allowances for any week shall not exceed $30 plus $10 for each of the individual's dependents, or $70, whichever is less. In determining the amount of such allowances for any individual, consideration shall be given to the individual's need for such an allowance, including any expenses reasonably attributable to receipt of training services, the extent to which such an allowance will help assure entry into and satisfactory completion of training, and such other factors, specified by the Commissioner, as will promote such individual's capacity to engage in gainful and suitable employment.

(3) The Commissioner may make a grant for a project pursuant to this subsection only on his determination that (A) the purpose of such project is to prepare handicapped individuals, especially those with the most severe handicaps, for gainful and suitable employment; (B) the individuals to receive training services under such project will include only those who have been determined to be suitable for and in need of such training services by the State agency or agencies designated as provided in section 721(a)(1) of this title of the State in which the rehabilitation facility is located; (C) the full range of training services will be made available to each such individual, to the extent of his need for such services; and (D) the project, including the participating rehabilitation facility and the training services provided, meet such other requirements as he may prescribe in regulations for carrying out the purposes of this subsection.

(c) Operation grants; buildings' use prohibition

(1) The Commissioner is authorized to make grants to public or nonprofit rehabilitation facilities, or to an organization or combination

of such facilities, to pay the Federal share of the cost of projects to analyze, improve, and increase their professional services to handicapped individuals, their management effectiveness, or any other part of their operations affecting their capacity to provide employment and services for such individuals.

[See main edition for text of (2)]

(As amended Pub. L. 95–602, title I, §§ 112(b), 122(c)(3), Nov. 6, 1978, 92 Stat. 2968, 2987.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–602, § 112(b), substituted "entering into contracts" for "contracts" and "each fiscal year ending before October 1, 1982" for "the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, September 30, 1977, and September 30, 1978".

Subsecs. (b), (c). Pub. L. 95–602, § 122(c)(3), substituted "Commissioner" for "Secretary".

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 773. Loan guarantees for rehabilitation facilities

(a) Purpose

It is the purpose of this section to assist and encourage the provision of needed facilities for programs for handicapped individuals primarily served by State rehabilitation programs.

(b) Loans to nonprofit entities by non-Federal lenders and Federal Financing Bank; construction; equipment

The Commissioner may, in accordance with this section and subject to section 776 of this title, guarantee the payment of principal and interest on loans made to nonprofit private entities by non-Federal lenders and by the Federal Financing Bank for the construction of rehabilitation facilities, including equipment used in their operation.

(c) Payment by Commissioner for reduction of effective interest rate

In the case of a guarantee of any loan to a nonprofit private entity under this section, the Commissioner shall pay, to the holder of such loan and for and on behalf of the project for which the loan was made, amounts sufficient to reduce by 2 percent per annum the net effective interest rate otherwise payable on such loan. Each holder of a loan which is guaranteed under this section shall have a contractual right to receive from the United States interest payments required by the preceding sentence.

(d) Limitation on amount of principal of outstanding loans

The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, may not exceed $100,000,000.

(e) Terms and conditions

(1) The Commissioner may not approve a loan guarantee for a project under this section unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Commissioner determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this section.

(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this section the amount of any payment made pursuant to such guarantee, unless the Commissioner for good cause waives such right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this section (including terms and conditions imposed under paragraph (1)) may be modified by the Commissioner to the extent he considers consistent with the interests of the United States.

(C) Any loan guarantee made by the Commissioner under this section shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(D) Guarantees of loans under this section shall be subject to such further terms and conditions as the Commissioner considers necessary to assure that the purposes of this section will be achieved.

(f) Establishment in Treasury of loan guarantee fund; authorization of appropriations; insufficient funds; issuance of notes and other obligations to Secretary of Treasury; interest rate and redemption

(1) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Commissioner without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts—

(A) to enable him to discharge his responsibilities under loan guarantees issued by him under this section; and

(B) for payment of interest under subsection (c) of this section on loans guaranteed under this section.

There are authorized to be appropriated such amounts as may be necessary to provide the sums required for the fund. There shall also be deposited in the fund amounts received by the

Commissioner in connection with loan guarantees under this section and other property or assets derived by him from his operations respecting such loan guarantees, including any money derived from the sale of assets.

(2)(A) If at any time the sums in the fund are insufficient to enable the Commissioner—

(i) to make payments of interest under subsection (c) of this section; or

(ii) to otherwise comply with guarantees under this section of loans to nonprofit private entities;

he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Commissioner with the approval of the Secretary of the Treasury.

(B) Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations.

(C) The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph, and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as a public debt transaction of the United States.

(D) Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Commissioner from the fund.

(As amended Pub. L. 95-602, title I, § 113, Nov. 6, 1978, 92 Stat. 2968.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (f)(2)(C), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables.

AMENDMENTS

1978—Pub. L. 95-602 substituted provisions guaranteeing the payment of principal and interest on loans made to nonprofit private entities by non-Federal lenders and by the Federal Financing Bank for construction of rehabilitation facilities but restricting the total amount of principal of loans outstanding at any one time to an amount not to exceed $100,000,000 for provisions authorizing the Secretary to insure mortgages for rehabilitation facilities and establishing a Rehabilitation Facilities Insurance Fund.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 774. Training

(a) Federal grants and contracts for personnel projects relating to training, traineeships, and related activities

The Commissioner may make grants to and contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to pay part of the cost of projects for training, traineeships, and related activities designed to assist in increasing the numbers of personnel trained in providing vocational, medical, social, and psychological rehabilitation services to handicapped individuals, including personnel specially trained in providing employment assistance to handicapped individuals through job development and job placement services, and personnel trained in performing other functions necessary to the development of such services.

(b) Balanced program of assistance meeting needs of public and private rehabilitation programs and institutions; description of projects and fields contributing to rehabilitation of handicapped individuals; study period limitation

In making such grants or contracts, funds made available for any year will be utilized to provide a balanced program of assistance to meet the medical, vocational, and other personnel training needs of both public and private rehabilitation programs and institutions, to include projects in rehabilitation medicine, rehabilitation nursing, rehabilitation counseling, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, physical therapy, occupational therapy, speech pathology and audiology, workshop and facility administration, prosthetics and orthodontics, specialized personnel in providing services to blind and deaf individuals, specialized personnel in providing job development and job placement services for handicapped individuals, recreation for ill and handicapped individuals, and other fields contributing to the rehabilitation of handicapped individuals, including homebound and institutionalized individuals and handicapped individuals with limited English-speaking ability. No grant shall be made under this section for furnishing to an individual any one course of study extending for a period in excess of four years.

(c) Evaluation of programs; determination of training needs for personnel; development of long-term manpower plan

The Commissioner shall evaluate the impact of the training programs conducted under this section, shall determine training needs for personnel necessary to provide services to handicapped individuals, and shall develop a long-term rehabilitation manpower plan designed to target resources on areas of personnel shortage.

(d) Interpreters for deaf individuals; grants; application for grants

(1) For the purpose of training a sufficient number of interpreters to meet the communications needs of deaf individuals, the Secretary,

through the Office of Information and Resources for the Handicapped, may award grants under this section to any public or private nonprofit agency or organization to establish interpreter training programs or to provide financial assistance for ongoing interpreter training programs. Not more than twelve programs shall be established or assisted by grants under this section. The Secretary shall award grants for programs in such geographic areas throughout the United States as the Secretary considers appropriate to best carry out the purpose of this section. Priority shall be given to public or private nonprofit agencies or organizations with existing programs that have demonstrated their capacity for providing interpreter training services.

(2) No grant shall be awarded under this section unless the applicant has submitted an application to the Secretary in such form, and in accordance with such procedures, as the Secretary may require. Any such application shall—

(A) describe the manner in which an interpreter training program would be developed and operated during the five-year period following the award of any grant under this section;

(B) demonstrate the applicant's capacity or potential for providing training for interpreters for deaf individuals;

(C) provide assurances that any interpreter trained or retrained under such program shall meet such minimum standards of competency as the Secretary may establish for purposes of this section;

(D) provide assurances that (i) to the extent appropriate, the applicant shall provide for the training or retraining (including short-term and in-service training) of teachers who are involved in providing instruction to deaf individuals but who are not certified as teachers of deaf individuals, and (ii) funds for such in-service training shall be provided under this section only through funds appropriated under the Education for All Handicapped Children Act; and

(E) contain such other information as the Secretary may require.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section $34,000,000 for the fiscal year ending September 30, 1979, $40,000,000 for the fiscal year ending September 30, 1980, $45,000,000 for the fiscal year ending September 30, 1981, and $50,000,000 for the fiscal year ending September 30, 1982. There are further authorized to be appropriated for each such fiscal year such additional sums as the Congress may determine to be necessary to carry out this section.

(Pub. L. 93-112, title III, § 304, formerly title II, § 203, Sept. 26, 1973, 87 Stat. 376, renumbered and amended Pub. L. 95-602, title I, §§ 109(2), 114, Nov. 6, 1978, 92 Stat. 2963, 2970.)

REFERENCES IN TEXT

The Education for All Handicapped Children Act, referred to in subsec. (d)(2)(D), probably means the Education for All Handicapped Children Act of 1975, Pub. L. 94-142, Nov. 29, 1975, 89 Stat. 773. For complete classification of this Act to the Code, see Short Title of 1975 Amendment note set out under section 1401 of Title 20, Education, and Tables.

CODIFICATION

As originally enacted, subsec. (e) was designated as a second subsec. (d), but for purposes of codification was editorially redesignated as (e) to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 304 of Pub. L. 93-112, title III, Sept. 26, 1973, 87 Stat. 381; Pub. L. 93-516, title I, §§ 106, 111(i)-(k), Dec. 7, 1974, 88 Stat. 1619, 1621; Pub. L. 93-651, title I, §§ 106, 111(i)-(k), Nov. 21, 1974, 89 Stat. 2-4, 2-6; Pub. L. 94-230, §§ 6, 11(b)(9), Mar. 15, 1976, 90 Stat. 212, 213, which related to special projects and demonstrations, was repealed by Pub. L. 95-602, title I, § 109(1), Nov. 6, 1978, 92 Stat. 2962.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-602, § 114(1), substituted "The Commissioner may" for "The Secretary, through the Commissioner, in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to", "vocational, medical, social, and psychological rehabilitation services" for "vocational services", and "individuals, including personnel specially trained in providing employment assistance to handicapped individuals through job development and job placement services, and personnel trained in performing" for "individuals and in performing".

Subsec. (b). Pub. L. 95-602, § 114(2), inserted ", rehabilitation psychiatry" following "social work" and "specialized personnel in providing job development and job placement services for handicapped individuals," following "blind and deaf individuals,".

Subsecs. (c) to (e). Pub. L. 95-602, § 114(3), added subsecs. (c) to (e).

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 6081.

§ 775. Comprehensive rehabilitation centers

(a) Establishment and operation; grants to designated State units; information and technical assistance to local governmental units and public and private nonprofit entities

(1) In order to provide a focal point in communities for the development and delivery of services designed primarily for handicapped persons, the Commissioner may make grants to any designated State unit to establish and operate comprehensive rehabilitation centers. The centers shall be established in order to provide a broad range of services to handicapped individuals, including information and referral services, counseling services, and job placement, health, educational, social, and recreational services, as well as to provide facilities for recreational activities.

(2) To the maximum extent practicable, such centers shall provide, upon request, to local governmental units and other public and private nonprofit entities located in the area such information and technical assistance (including

support personnel such as interpreters for the deaf) as may be necessary to assist those entities in complying with this chapter, particularly the requirements of section 794 of this title.

(b) Application for grant; approval by Commissioner

No grant may be made under this section unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application for a grant unless the application—

(1) contains assurances that the designated State unit will use funds provided by such grant in accordance with subsections (c) and (d) of this section; and

(2) contains such other information, and is submitted in such form and in accordance with such procedures, as the Commissioner may require.

(c) Grants or contracts by designated State unit; operation of facilities by designated State unit; personnel and equipment

(1) The designated State unit may—

(A) in accordance with subsection (c) of this section make grants to units of general purpose local government or to other public or nonprofit private agencies or organizations and may make contracts with any agency or organization to pay not to exceed 80 percent of the cost of—

(i) leasing facilities to serve as comprehensive rehabilitation centers;

(ii) expanding, remodeling, or altering facilities to the extent necessary to adapt them to serve as comprehensive rehabilitation centers;

(iii) operating such centers; or

(iv) carrying out any combination of the activities specified in this subparagraph; and

(B) directly carry out the activities described in subparagraph (A), except that not more than 80 percent of the costs of providing any comprehensive rehabilitation center may be provided from funds under this section.

(3) Funds made available to any designated State unit under this section for the purpose of assisting in the operation of a comprehensive rehabilitation center may be used to compensate professional and technical personnel required to operate the center and to deliver services in the center, and to provide equipment for the center.

(d) Application requirements for approval of grant or contract by designated State unit; use of funds by designated State unit

(1) The designated State unit may approve a grant or enter into a contract under subsection (c) of this section only if the application for such grant or contract meets the requirements specified in paragraphs (1), (2), (4), and (5) of section 776(b) of this title and if the application contains assurances that any facility assisted by such grant or contract shall be in reasonably close proximity to the majority of individuals eligible to use the comprehensive rehabilitation center.

(2) Any designated State unit which directly provides for comprehensive rehabilitation centers under subsection (c)(1)(B) of this section shall use funds under this section in the same manner as any other grant recipient is required to use such funds.

(e) Failure of owner or facility to continue to qualify; recovery by United States; determination of amount

If within 20 years after the completion of any construction project for which funds have been paid under this section—

(1) the owner of the facility ceases to be a public or nonprofit private agency or organization, or

(2) the facility ceases to be used for the purposes for which it was leased or constructed (unless the Commissioner determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so),

the United States shall be entitled to recover from the grant recipient or other owner of the facility an amount which bears the same ratio to the value of the facility (or so much thereof as constituted an approved project or projects) at the time the United States seeks recovery as the amount of such Federal funds bore to the cost of renovating the facility under subsection (c)(1)(A)(ii) of this section. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(f) Nonapplicability of general contract and grant requirements; exceptions

The requirements of section 776 of this title shall not apply to funds allotted under this section, except that subsections (g) and (h) of such section shall be applicable with respect to such funds.

(g) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year ending September 30, 1979, and for the three succeeding fiscal years.

(Pub. L. 93–112, title III, § 305, as added Pub. L. 95–602, title I, § 115(a), Nov. 6, 1978, 92 Stat. 2971.)

PRIOR PROVISIONS

A prior section 305 of Pub. L. 93–112, title III, Sept. 26, 1973, 87 Stat. 383, as amended by Pub. L. 93–516, title I, § 107, Dec. 7, 1974, 88 Stat. 1619; Pub. L. 93–651, title I, § 107, Nov. 21, 1974, 89 Stat. 2–4; Pub. L. 94–230, §§ 7, 11(b)(10), Mar. 15, 1976, 90 Stat. 212, 213; Pub. L. 94–288, §§ 1, 2, May 21, 1976, 90 Stat. 520, which authorized appropriations for fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, Sept. 30, 1977, and Sept. 30, 1978, for the establishment of the Helen Keller National Center for Deaf-Blind Youths and Adults, was formerly classified to this section and redesignated section 313 of Pub. L. 93–112 by section 109(1) of Pub. L. 95–602. Section 313 of Pub. L. 93–112, as amended generally by section 116(2) of Pub. L. 95–602, is now classified to section 777c of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter

to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 776 of this title.

§ 776. General grant and contract requirements

(a) Applicability of provisions; compliance with provisions, exceptions

The provisions of this section shall apply to all projects approved and assisted under this subchapter, except as otherwise provided in section 775(g) of this title.[1] The Commissioner shall insure compliance with this section prior to making any grant or entering into any contract or agreement under this subchapter, except projects authorized under section 772 of this title.

(b) Construction project requirements; assurances; use of funds for intended purposes; report to Congress; plans and specifications; labor standards

To be approved, an application for assistance for a construction project, or for a project which involves construction, under this subchapter must—

[*See main edition for text of* (1) *and* (2)]

(3) provide that the agency or organization receiving Federal funds under this subchapter will make an annual report to the Commissioner, which the Commissioner shall submit to the Secretary for inclusion (in summarized form) in the annual report submitted to the Congress under section 712 of this title;

(4) be accompanied or supplemented by plans and specifications which have been approved by the Board established by section 792 of this title, in which due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project), and which comply with regulations prescribed by the Commissioner related to minimum standards of construction and equipment (promulgated with particular emphasis on securing compliance with the requirements of the Architectural Barriers Act of 1968 (P.L. 90-480) [42 U.S.C. 4151 et seq.]), and with regulations of the Secretary of Labor relating to occupational health and safety standards for rehabilitation facilities; and

[*See main edition for text of* (5)]

(c) Reservation of grant funds; additional payments

Upon approval of any application for a grant or contract for a project under this subchapter, the Commissioner shall reserve, from any appropriation available therefore, the amount of such grant or contract determined under this subchapter. In case an amendment to an approved application is approved, or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the appropriation from which the original reservation was made or the appropriation for the fiscal year in which such amendment or revision is approved.

[*See main edition for text of* (d)]

(e) Payments; adjustments for overpayments or underpayments; advances; reimbursement; installments; conditions

Payment of assistance or reservation of funds made pursuant to this subchapter may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Commissioner may determine.

(f) Workshops; residential accommodations

A project for construction of a rehabilitation facility which is primarily a workshop may, where approved by the Commissioner as necessary to the effective operation of the facility, include such construction as may be necessary to provide residential accommodations for use in connection with the rehabilitation of handicapped individuals.

[*See main edition for text of* (g) *and* (h)]

(i) State agency commentary on grant or contract

Prior to making any grant or entering into any contract under this subchapter, the Commissioner shall afford reasonable opportunity to the appropriate State agency or agencies designated pursuant to section 721 of this title to comment on such grant or contract.

(As amended Pub. L. 95-602, title I, §§ 115(b), 122(c)(4)-(6), Nov. 6, 1978, 92 Stat. 2972, 2987.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-602, §§ 115(b), 122(c)(4), inserted ", except as otherwise provided in section 775(g) of this title" following "assisted under this subchapter" and substituted "Commissioner" for "Secretary".

Subsec. (b)(3). Pub. L. 95-602, § 122(c)(5), substituted provision directing that the annual report of agencies and organizations receiving federal funds be made to the Commissioner who will then submit it to the Secretary for provision directing that the annual report be made to the Secretary.

Subsec. (b)(4). Pub. L. 95-602, § 122(c)(6), substituted "prescribed by the Commissioner" for "prescribed by the Secretary".

Subsecs. (c), (e), (f), (i). Pub. L. 95-602, § 122(c)(4), substituted "Commissioner" for "Secretary" wherever appearing.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 721, 762, 771, 773, 775, 777a, 777b, 777c, 777f of this title.

PART B—SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES [NEW]

§ 777. Authorization of appropriations

(a) For the purpose of carrying out this part (other than section 777c of this title), there are

[1] So in original. Probably should be a reference to section 775(f) of this title.

authorized to be appropriated such sums as may be necessary for each fiscal year ending before October 1, 1982.

(b) Of the amounts appropriated for any fiscal year under subsection (a) of this section, 5 percent of such amount shall be available in such fiscal year only for the purpose of making grants under section 777b of this title. There is further authorized to be appropriated for each such fiscal year such additional amount as may be necessary to equal, when added to the amount made available for the purpose of making grants under section 777b of this title, an amount of $5,000,000 for each such fiscal year.

(Pub. L. 93–112, title III, § 310, as added Pub. L. 95–602, title I, § 116(2), Nov. 6, 1978, 92 Stat. 2973.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 732 of this title.

§ 777a. Special demonstration programs; grants; individuals with spinal cord injuries

(a) Subject to the provisions of section 776 of this title, the Commissioner may make grants to States and to public or nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstrations (including related research and evaluation) for—

(1) establishing programs and, where appropriate, constructing facilities for providing vocational rehabilitation services, which hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals (especially those with the most severe handicaps), including individuals with spinal cord injuries and blind or deaf individuals, irrespective of age or vocational potential, who can benefit from comprehensive services;

(2) applying new types or patterns of services or devices for handicapped individuals (including programs for providing handicapped individuals, or other individuals in programs servicing handicapped individuals, with opportunities for new careers); and

(3) operating programs and, where appropriate, renovating and constructing facilities to demonstrate methods of making recreational activities fully accessible to handicapped individuals.

(b) Any project or demonstration assisted by a grant under this section which provides services to individuals with spinal cord injuries shall—

(1) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

(2) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

(3) demonstrate and evaluate existing, new, and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

(4) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

(Pub. L. 93–112, title III, § 311, as added Pub. L. 95–602, title I, § 116(2), Nov. 6, 1978, 92 Stat. 2973.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 777b. Migratory workers; maintenance payments; coordination with other programs

The Commissioner, subject to the provisions of section 776 of this title, is authorized to make grants to any State agency designated pursuant to a State plan approved under section 721 of this title, or to any local agency participating in the administration of such a plan, to pay up to 90 per centum of the cost of projects or demonstrations for the provision of vocational rehabilitation services to handicapped individuals, as determined in accordance with rules prescribed by the Secretary of Labor, who are migratory agricultural workers or seasonal farmworkers, and to members of their families (whether or not handicapped) who are with them, including maintenance and transportation of such individuals and members of their families where necessary to the rehabilitation of such individuals. Maintenance payments under this section shall be consistent with any maintenance payments made to other handicapped individuals in the State under this chapter. Such grants shall be conditioned upon satisfactory assurance that in the provision of such services there will be appropriate cooperation between the grantee and other public or nonprofit agencies and organizations having special skills and experience in the provision of services to migratory agricultural workers, seasonal farmworkers, or their families. This section shall be administered in coordination with other programs serving migrant agricultural workers and seasonal farmworkers, including programs under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 2701 et seq.], section 311 of the Economic Opportunity Act of 1964 [42 U.S.C. 2861], the Migrant Health Act [42 U.S.C. 254b], and the Farm Labor Contractor Registration Act of 1963 [7 U.S.C. 2041 et seq.].

(Pub. L. 93–112, title III, § 312, as added Pub. L. 95–602, title I, § 116(2), Nov. 6, 1978, 92 Stat. 2974.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in text, is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2152. Title I of the 1965 Act, which was formerly classified to subchapter II (§ 241a et seq.) of chapter 13 of Title 20, Education, is now

classified generally to subchapter I (§ 2701 et seq.) of chapter 47 of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 20 and Tables.

Section 311 of the Economic Opportunity Act of 1964 [42 U.S.C. 2861], referred to in text, was repealed by Pub. L. 95-568, § 8(a)(2), Nov. 2, 1978, 92 Stat. 2428.

The Migrant Health Act, referred to in text, means section 329, formerly section 310, of act July 1, 1944, ch. 373, as added by Pub. L. 87-692, Sept. 25, 1962, 76 Stat. 592, as amended, which is classified to section 254b of Title 42, The Public Health and Welfare.

The Farm Labor Contractor Registration Act of 1963, referred to in text, is Pub. L. 88-582, Sept. 7, 1964, 78 Stat. 920, as amended, which is classified generally to chapter 52 (§ 2041 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2041 of Title 7 and Tables.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 777 of this title.

§ 777c. Helen Keller National Center for Deaf-Blind Youths and Adults

(a) Establishment

The purpose of this section is to provide for the establishment and operation of the Helen Keller National Center for Deaf-Blind Youths and Adults. Any funds appropriated under this part for construction of the Center shall remain available until expended.

(b) Statement of purposes; agreement for establishment and operation; designation

In order—

(1) to demonstrate methods of (A) providing the specialized intensive services, and other services, needed to rehabilitate handicapped individuals who are both deaf and blind, and (B) training the professional and allied personnel needed adequately to staff facilities specifically designed to provide such services and training to such personnel who have been or will be working with deaf-blind individuals;

(2) to conduct research in the problems of, and ways of meeting the problems of rehabilitating, deaf-blind individuals; and

(3) to aid in the conduct of related activities which will expand or improve the services for or help improve public understanding of the problems of deaf-blind individuals;

the Secretary, subject to the provisions of section 776 of this title, is authorized to enter into an agreement with any public or nonprofit agency or organization for payment by the United States of all or part of the costs of the establishment and operation, including construction and equipment, of a center for vocational rehabilitation of handicapped individuals who are both deaf and blind, which center shall be known as the Helen Keller National Center for Deaf-Blind Youths and Adults.

(c) Proposals; preference

Any agency or organization desiring to enter into such agreement shall submit a proposal therefor at such time, in such manner, and containing such information as may be prescribed in regulations by the Secretary. In considering such proposals the Secretary shall give preference to proposals which (1) give promise of maximum effectiveness in the organization and operation of the Helen Keller National Center, and (2) give promise of offering the most substantial skill, experience, and capability in providing a broad program of service, research, training, and related activities in the field of rehabilitation of deaf-blind individuals.

(d) Recovery of costs of services

To the extent feasible the Helen Keller National Center for Deaf-Blind Youths and Adults shall seek to recover from States, private insurers, and other participating public and private agencies the costs of services provided to individuals by the Center.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for each fiscal year beginning before October 1, 1982.

(Pub. L. 93-112, title III, § 313, as added Pub. L. 95-602, title I, § 116(2), Nov. 6, 1978, 92 Stat. 2974.)

PRIOR PROVISIONS

Provisions similar to those comprising this section and authorizing appropriations for fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, Sept. 30, 1977, and Sept. 30, 1978, for the establishment of the Helen Keller National Center for Deaf-Blind Youths and Adults were contained in former section 305 of Pub. L. 93-112, title III, Sept. 26, 1973, 87 Stat. 383, as amended by Pub. L. 93-516, title I, § 107, Dec. 7, 1974, 88 Stat. 1619; Pub. L. 93-651, title I, § 107, Nov. 21, 1974, 89 Stat. 2-4; Pub. L. 94-230, §§ 7, 11(b)(10), Mar. 15, 1976, 90 Stat. 212, 213; Pub. L. 94-288, §§ 1, 2, May 21, 1976, 90 Stat. 520, which was classified to former section 775 of this title. Section 109(1) of Pub. L. 95-602 redesignated this former section 305 as section 313 of Pub. L. 93-112. Section 313 of Pub. L. 93-112, as amended generally by section 116(2) of Pub. L. 95-602, is classified to this section.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 777 of this title.

§ 777d. Reader services for blind persons

(a) Grants

The Commissioner may award grants to States or to private nonprofit agencies or organizations of national scope (as so determined by the Commissioner) to—

(1) provide reading services to blind persons who are not otherwise eligible for such services through other State or Federal programs; and

(2) expand the quality and scope of reading services available to blind persons, and to assure to the maximum extent possible that

the reading services provided under this chapter will meet the reading need of blind persons attending institutions providing elementary, secondary, or post-secondary education, and will be adequate to assist blind persons to obtain and continue in employment.

Any State which receives a grant under this section shall administer the reading services for which such grant is awarded through the designated State unit of the State.

(b) Application

No grant shall be awarded under this section unless the applicant has submitted an application to the Secretary in such form, at such time, and containing such information as the Secretary may require.

(c) Definition

For purposes of this section, the term "reading services" means—

(1) the employment of persons who, by reading aloud, can afford blind persons ready access to printed information;

(2) the transcription of printed information into braille or sound recordings if such transcription is performed pursuant to individual requests from blind persons for such services;

(3) the storage and distribution of braille materials and sound recordings;

(4) the purchase, storage, and distribution of equipment and materials necessary for the production, duplication, and reproduction of braille materials and sound recordings;

(5) the purchase, storage, and distribution of equipment to blind persons to provide them with individual access to printed materials by mechanical or electronic means; and

(6) radio reading services for blind persons.

(Pub. L. 93–112, title III, § 314, as added Pub. L. 95–602, title I, § 116(2), Nov. 6, 1978, 92 Stat. 2975.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 777e. Interpreter services for deaf persons

(a) Grants

The Commissioner may make grants to designated State units to establish within each State a program of interpreter services (including interpreter referral services) which shall be made available to deaf individuals and to any public agency or private nonprofit organization involved in the delivery of assistance or services to deaf individuals.

(b) Application

No grant may be made under this section unless an application therefor is submitted to the Commissioner in such form, at such times, and in accordance with such procedures as the Commissioner may require. Such application shall—

(1) provide assurances that the program to be conducted under this section will be operated in areas within the State which are specifically selected to provide convenient locations for the provision of services to the maximum number of deaf individuals feasible;

(2) include a plan which describes, in sufficient detail, the manner in which interpreter referral services will be coordinated with the information and referral programs required under section 721(a)(22) of this title;

(3) provide assurances that the program will seek to enter into contractual or other arrangements, to the extent appropriate, with private nonprofit organizations comprised of primarily hearing-impaired individuals (or private nonprofit organizations which have the primary purpose of providing assistance or services to hearing-impaired individuals) for the operation of such programs;

(4) provide that any interpreter participating in the program shall be required to meet minimum standards established by the Commissioner; and

(5) contain such other information as the Secretary may require.

(c) Services provided by designated State unit; purchase or rental of equipment

Any designated State unit receiving funds under this section may provide interpreter services, without cost, for a period of not to exceed one year to any public agency or private nonprofit organization which provides assistance to deaf individuals. At the end of such period, agencies or organizations receiving such services through referrals shall reimburse the designated State unit for the costs of such services. Funds may also be used for the purchase or rental of equipment necessary to provide assistance or services to deaf individuals.

(d) Restrictions on use of funds

Funds provided to any designated State unit for any program under this section shall not be used for any administrative or related costs, nor shall such funds be used for assistance to deaf individuals who are receiving rehabilitation services under any other provision of this chapter.

(Pub. L. 93–112, title III, § 315, as added Pub. L. 95–602, title I, § 116(2), Nov. 6, 1978, 92 Stat. 2975.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 777f. Recreational programs

The Commissioner, subject to the provisions of section 776 of this title, shall make grants to State and public nonprofit agencies and organizations for paying part or all of the cost of initiation of recreation programs to provide handicapped individuals with recreational activities to aid in the mobility and socialization of such individuals. The activities authorized to be assisted under this section may include, but are not limited to, scouting and camping, 4-H activities, sports, music, dancing, handicrafts, art,

and homemaking. No grant may be made under the provisions of this section unless the agreement with respect to such grant contains provisions to assure that, to the extent possible, existing resources will be used to carry out the activities for which the grant is to be made, and that with respect to children the activities for which the grant is to be made will be conducted after school.

(Pub. L. 93-112, title III, § 316, as added Pub. L. 95-602, title I, § 116(2), Nov. 6, 1978, 92 Stat. 2976.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SUBCHAPTER IV—NATIONAL COUNCIL ON THE HANDICAPPED [NEW]

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 702, 706, 761a of this title.

§ 780. Establishment of National Council on the Handicapped

(a) Membership

There is established with the Department of Health, Education, and Welfare a National Council on the Handicapped (hereinafter in this subchapter referred to as the "National Council"), which shall be composed of fifteen members appointed by the President, by and with the advice and consent of the Senate. The members of the National Council shall be appointed so as to be representative of handicapped individuals, national organizations concerned with the handicapped, providers and administrators of services to the handicapped, individuals engaged in conducting medical or scientific research relating to handicapped individuals, business concerns, and labor organizations. At least five members of the National Council shall be handicapped individuals, or parents or guardians of handicapped individuals.

(b) Term of office

(1) Members of the National Council shall be appointed to serve for terms of three years, except that of the members first appointed—

(A) five shall serve for terms of one year,

(B) five shall serve for terms of two years, and

(C) five shall serve for terms of three years,

as designated by the President at the time of appointment.

(2) Members may be reappointed and may serve after the expiration of their terms until their successors have taken office.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(c) Chairman; meetings

The President shall designate the Chairman from among the members appointed to the National Council. The National Council shall meet at the call of the Chairman, but not less often than four times each year.

(d) Quorum; vacancies

Eight members of the National Council shall constitute a quorum and any vacancy in the National Council shall not affect its power to function.

(Pub. L. 93-112, title IV, § 400, as added Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977.)

PRIOR PROVISIONS

A prior section 780, Pub. L. 93-112, title IV, § 400, Sept. 26, 1973, 87 Stat. 385, which related to the general administrative powers of the Secretary under this chapter, was repealed by Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 781. Duties of National Council

The National Council shall—

(1) establish general policies for, and review the operation of, the National Institute of Handicapped Research;

(2) provide advice to the Commissioner with respect to the policies of and conduct of the Rehabilitation Services Administration;

(3) advise the Commissioner, the appropriate Assistant Secretary of the Department of Health, Education, and Welfare, and the Director of the National Institute of Handicapped Research on the development of the programs to be carried out under this chapter;

(4) review and evaluate on a continuing basis all policies, programs, and activities concerning handicapped individuals and persons with developmental disabilities conducted or assisted by Federal departments and agencies, including programs established or assisted under this chapter or under the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. 6000 et seq.], in order to assess the effectiveness of such policies, programs, and activities in meeting the needs of handicapped individuals;

(5) make recommendations to the Secretary, the Commissioner, and the Director of the National Institute of Handicapped Research respecting ways to improve research concerning handicapped individuals, the administration of services for handicapped individuals, and the methods of collecting and disseminating the findings of such research, and make recommendations for facilitating the implementation of programs based upon such findings; and

(6) submit not later than March 31 of each year (beginning in 1980) an annual report to the Secretary, the Congress, and the President, containing (A) a statement of the current status of research concerning the handicapped in the United States, (B) a review of the activities of the Rehabilitation Services

Administration and the National Institute of Handicapped Research, and (C) such recommendations respecting the items described in clauses (A) and (B) as the National Council considers appropriate.

(Pub. L. 93-112, title IV, § 401, as added Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977.)

REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act, referred to in par. (4), is title I of Pub. L. 88-164, as added by Pub. L. 94-103, Oct. 4, 1975, 89 Stat. 496, and amended, which is classified generally to chapter 75 (§ 6000 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6000 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 781, Pub. L. 93-112, title IV, § 401, Sept. 26, 1973, 87 Stat. 386, which related to program and project evaluation, was repealed by Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 782. Compensation of National Council Members

(a) Rate

Members of the National Council shall be entitled to receive compensation at a rate equal to the rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, including traveltime, for each day they are engaged in the performance of their duties as members of the National Council.

(b) Full-time officers or employees of United States

Members of the National Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the National Council except for compensation for travel expenses as provided under subsection (c) of this section.

(c) Travel expenses

While away from their homes or regular places of business in the performance of services for the National Council, members of the National Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

(Pub. L. 93-112, title IV, § 402, as added Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2978.)

PRIOR PROVISIONS

A prior section 782, Pub. L. 93-112, title IV, § 402, Sept. 26, 1973, 87 Stat. 387, which authorized the Secretary to obtain information from Federal agencies, was repealed by Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 783. National Council staff

(a) Technical and professional employees

The National Council may appoint, without regard to the provisions of title 5 governing appointments in the competitive service, or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, up to seven technical and professional employees to assist the National Council to carry out its duties.

(b) Temporary or intermittent services

The National Council may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 (but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5.

(c) Administrative support services

The Administrator of General Services shall provide to the National Council on a reimbursable basis such administrative support services as the Council may request.

(Pub. L. 93-112, title IV, § 403, as added Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2978.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 783, Pub. L. 93-112, title IV, § 403, Sept. 26, 1973, 87 Stat. 387; Pub. L. 93-516, title I, § 108, Dec. 7, 1974, 88 Stat. 1619; Pub. L. 93-651, title I, § 108, Nov. 21, 1974, 89 Stat. 2-4; Pub. L. 94-230, §§ 8, 11(b)(11), Mar. 15, 1976, 90 Stat. 212, 213, which authorized appropriations to conduct program and project evaluations, was repealed by Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 784. Administrative powers of National Council

(a) Bylaws and rules

The National Council may prescribe such bylaws and rules as may be necessary to carry out its duties under this subchapter.

(b) Hearings

The National Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

(c) Advisory committees

The National Council may appoint advisory committees to assist the National Council in carrying out its duties. The members thereof shall serve without compensation.

(d) Use of mails

The National Council may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(Pub. L. 93-112, title IV, § 404, as added Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2979.)

PRIOR PROVISIONS

A prior section 784, Pub. L. 93-112, title IV, § 404, Sept. 26, 1973, 87 Stat. 387, which required the Secretary to submit annual reports to the President and to Congress on activities carried out under this chapter, was repealed by Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 785. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter such sums as may be necessary.

(Pub. L. 93-112, title IV, § 405, as added Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2979.)

PRIOR PROVISIONS

A prior section 785, Pub. L. 93-112, title IV, § 405, Sept. 26, 1973, 87 Stat. 388; Pub. L. 93-516, title I, §§ 109, 111(m), Dec. 7, 1974, 88 Stat. 1619, 1621; Pub. L. 93-651, title I, §§ 109, 111(m), Nov. 21, 1974, 89 Stat. 2-4, 2-6; Pub. L. 94-230, §§ 9, 11(b)(12), Mar. 15, 1976, 90 Stat. 212, 213, which specified certain responsibilities of the Secretary, was repealed by Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977.

§§ 786, 787. Repealed. Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977

Section 786, Pub. L. 93-112, title IV, § 406, Sept. 26, 1973, 87 Stat. 389; S. Res. 4, Feb. 4, 1977, provided that the Secretary conduct a study on the role of sheltered workshops in the rehabilitation and employment of handicapped individuals and report the results of this study to Congress within twenty-four months after Sept. 26, 1973.

Section 787, Pub. L. 93-112, title IV, § 407, Sept. 26, 1973, 87 Stat. 389, provided that the Secretary conduct a study on allotment of funds among the States for grants for basic vocational rehabilitation and report the results of this study to Congress not later than June 30, 1974.

SUBCHAPTER V—MISCELLANEOUS PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 702, 706 of this title; title 42 section 5057.

§ 791. Employment of handicapped individuals

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

All Federal employment of handicapped individuals enforcement functions and related functions vested by this section in the Civil Service Commission were transferred to the Equal Employment Opportunity Commission, and the function of being co-chairman of the Interagency Committee on Handicapped Employees, vested by this section in the Chairman of the Civil Service Commission, was transferred to the Chairman of the Equal Employment Opportunity Commission by Reorg. Plan No. 1 of 1978, § 4, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

EX. ORD. NO. 11480. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF THE HANDICAPPED

Ex. Ord. No. 11480, Sept. 9, 1969, 34 F.R. 14273, as amended by Ex. Ord. No. 12106, Dec. 26, 1978, 44 F.R. 1053, provided:

[*See main edition for text of first par. and Secs. 1 to 3*]

SEC. 4. *Advisory Council.* There is hereby established the Advisory Council on Employment of the Handicapped, which shall advise the President's Committee with respect to the responsibilities of the Committee. The Council shall be composed of the Chairman of the President's Committee, who shall also be the Chairman of the Council, and of the following-named officers, or their respective alternatives: The Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Administrator of Veterans' Affairs, Director of the Office of Personnel Management, and the Chairman of the Equal Employment Opportunity Commission.

[*See main edition for text of Secs. 5 and 6*]

EX. ORD. NO. 11830. ENLARGING MEMBERSHIP OF INTERAGENCY COMMITTEE ON HANDICAPPED EMPLOYEES

Ex. Ord. No. 11830, Jan. 9, 1975, 40 F.R. 2411, as amended by Ex. Ord. No. 12106, Dec. 26, 1978, 44 F.R. 1053, provided:

By virtue of the authority vested in me by section 501(a) of the Rehabilitation Act of 1973 (Public Law 93-112; 87 Stat. 390) [subsec. (a) of this section], it is hereby ordered as follows:

Section 1. In accord with Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and Section 4 of Reorganization Plan No. 1 of 1978 (43 FR 19808) [set out in the Appendix to Title 5, Government Organization and Employees], the Interagency Committee on Handicapped Employees is enlarged and composed of the following, or their designees whose positions are Executive level IV or higher:

(1) Secretary of Defense.

(2) Secretary of Labor.

(3) Secretary of Health, Education, and Welfare, Co-Chairman.

(4) Director of the Office of Personnel Management.

(5) Administrator of Veterans Affairs.

(6) Administrator of General Services.
(7) Chairman of the Federal Communications Commission.
(8) Chairman of the Equal Employment Opportunity Commission, Co-Chairman.
(9) Such other members as the President may designate.
Sec. 2. [Deleted.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 794a of this title; title 5 sections 2302, 7702; title 38 section 2014; title 42 section 5057.

§ 792. Architectural and Transportation Barriers Compliance Board

(a) Establishment; membership; chairman; term of office; termination of membership; reappointment; compensation and travel expenses

(1) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the "Board") which shall be composed as follows:

(A) Eleven members shall be appointed by the President from among members of the general public of whom five shall be handicapped individuals.

(B) The remaining members shall be the heads of each of the following departments or agencies (or their designees whose positions are executive level IV or higher):

(i) Department of Health, Education, and Welfare.
(ii) Department of Transportation.
(iii) Department of Housing and Urban Development.
(iv) Department of Labor.
(v) Department of the Interior.
(vi) Department of Defense.
(vii) Department of Justice.
(viii) General Services Administration.
(ix) Veterans' Administration.
(x) United States Postal Service.

The President shall appoint the first Chairman of such Board who shall serve for a term of not more than two years; thereafter, the Chairman shall be elected by a vote of a majority of the Board for a term of one year.

(2) The term of office of each appointed member of the Board shall be three years; except that (i) the members first taking office shall serve, as designated by the President at the time of appointment, four for a term of one year, four for a term of two years, and three for a term of three years, and (ii) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

(3) If any appointed member of the Board becomes a Federal employee, such member may continue as a member of the Board for not longer than the sixty-day period beginning on the date he becomes such an employee.

(4) No individual appointed under paragraph (1)(A) of this subsection who has served as a member of the Board may be reappointed to the Board more than once unless such individual has not served on the Board for a period of two years prior to the effective date of such individual's appointment.

(5)(A) Members of the Board who are not regular full-time employees of the United States shall, while serving on the business of the Board, be entitled to receive compensation at rates fixed by the President, but not to exceed the daily rate prescribed for GS–18 under section 5332 of title 5, including traveltime, for each day they are engaged in the performance of their duties as members of the Board; and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

(B) Members of the Board who are employed by the Federal Government shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

(b) Functions

It shall be the function of the Board to: (1) insure compliance with the standards prescribed pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968 [42 U.S.C. 4151 et seq.] (including the application of that Act to the United States Postal Service) including but not limited to enforcing all standards under that Act, and insuring that all waivers and modifications of standards are based upon findings of fact and are not inconsistent with the provisions of such Act and this section; (2) investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting handicapped individuals, particularly with respect to telecommunication devices, public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation whether interstate, foreign, intrastate, or local), and residential and institutional housing; (3) determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies to eliminate the barriers described in clause (2) of this subsection; (4) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of the General Services Administration, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968; (5) make to the President and to Congress reports which shall describe in detail the results to its investigations under clauses (2) and (3) of this subsection; (6) make to the President and to the Congress such recommendations for legislation and administration as it deems necessary or desirable to eliminate the barriers described in clause (2) of this subsection; (7) establish minimum guidelines and requirements for the standards issued pursuant to the Act of August 12, 1968, as amended, commonly known as the Architectural Barriers Act of 1968; and (8) insure that public conveyances, including rolling stock, are readily accessible to, and usable by, physically handicapped persons.

[*See main edition for text of* (c)]

(d) Investigations; hearings; orders; administrative procedure applicable; final orders; judicial review; civil action; intervention; development of standards; technical assistance to persons or entities affected

(1) In carrying out its functions under this chapter, the Board shall, directly or through grants to public or private nonprofit organizations or contracts with private nonprofit or for profit organizations, carry out its functions under subsections (b) and (c) of this section, and shall conduct investigations, hold public hearings, and issue such orders as it deems necessary to insure compliance with the provisions of the Acts cited in subsection (b) of this section. Except as provided in paragraph (3) of subsection (e) of this section, the provisions of subchapter II of chapter 5, and chapter 7, of title 5 shall apply to procedures under this section, and an order of compliance issued by the Board shall be a final order for purposes of judicial review. Any such order affecting any Federal department, agency, or instrumentality of the United States shall be final and binding on such department, agency, or instrumentality. An order of compliance may include the withholding or suspension of Federal funds with respect to any building or public conveyance or rolling stock found not to be in compliance with standards enforced under this section. Pursuant to chapter 7 of title 5, any complainant or participant in a proceeding under this subsection may obtain review of a final order issued in such proceeding.

(2) The executive director is authorized, at the direction of the Board—

(A) to bring a civil action in any appropriate United States district court to enforce, in whole or in part, any, final order of the Board under this subsection; and

(B) to intervene, appear, and participate, or to appear as amicus curiae, in any court of the United States or in any court of a State in civil actions which related to this section or to the Architectural Barriers Act of 1968 [42 U.S.C. 4151 et seq.].

Except as provided in section 518(a) of title 28, relating to litigation before the Supreme Court, the executive director may appear for and represent the Board in any civil litigation brought under this section.

(3) The Board, in consultation and coordination with other concerned Federal departments and agencies and agencies within the Department of Health, Education, and Welfare, shall develop standards and provide appropriate technical assistance to any public or private activity, person, or entity affected by regulations prescribed pursuant to this subchapter with respect overcoming to[1] architectural, transportation, and communication barriers. Any funds appropriated to any such department or agency for the purpose of providing such assistance may be transferred to the Board for the purpose of carrying out this paragraph. The Board may arrange to carry out its responsibilities under this paragraph through such other departments and agencies for such periods as the Board determines is appropriate. In carrying out its technical assistance responsibilities under this paragraph, the Board shall establish a procedure to insure separation of its compliance and technical assistance responsibilities under this section.

(e) Appointment of executive director, administrative law judges, and other personnel; provisions applicable to administrative law judges; authority and duties of executive director; finality of orders of compliance

(1) There shall be appointed by the Board an executive director and such other professional and clerical personnel as are necessary to carry out its functions under this chapter. The Board is authorized to appoint as many administrative law judges as are necessary for proceedings required to be conducted under this section. The provisions applicable to administrative law judges appointed under section 3105 of title 5 shall apply to administrative law judges appointed under this subsection.

(2) The Executive Director shall exercise general supervision over all personnel employed by the Board (other than administrative law judges and their assistants). The Executive Director shall have final authority on behalf of the Board, with respect to the investigation of alleged noncompliance in the issuance of formal complaints before the Board, and shall have such other duties as the Board may prescribe.

(3) For the purpose of this section, an order of compliance issued by an administrative law judge shall be deemed to be an order of the Board and shall be the final order for the purpose of judicial review.

[*See main edition for text of (f) and (g)*]

(h) Report to President and Congress; assessments of State expenditures to provide full access to programs and activities; grants and contracts to aid Board in carrying out its functions

(1) Within one year following November 6, 1978, the Board shall submit to the President and the Congress a report containing an assessment of the amounts required to be expended by States and by political subdivisions thereof to provide handcapped[1] individuals with full access to all programs and activities receiving Federal assistance.

(2) The Board may make grants to, or enter into contracts with, public or private organizations to carry out its duties under subsections (b) and (c) of this section. The Board may also make grants to any designated State unit for the purpose of conducting studies to provide the cost assessments required by paragraph (1). Before including in such report the findings of any study conducted for the Board under a grant or contract to provide the Board with such cost assessments, the Board shall take all necessary steps to validate the accuracy of any such findings.

(i) Authorization of appropriations

There are authorized to be appropriated for the purpose of carrying out the duties and

[1] So in original. Probably should be "to overcoming" not "overcoming to".

[1] So in original. Probably should be "handicapped".

functions of the Board under this section such sums as may be necessary for each fiscal year ending before October 1, 1982, but in no event shall the amount appropriated for any one fiscal year exceed $3,000,000.

(As amended Pub. L. 95–251, § 2(a)(8), Mar. 27, 1978, 92 Stat. 183; Pub. L. 95–602, title I, § 118, Nov. 6, 1978, 92 Stat. 2979.)

REFERENCES IN TEXT

Executive level IV, referred to in subsec. (a)(1)(B), is set out in section 5315 of Title 5, Government Organization and Employees.

The Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, referred to in subsecs. (b) and (d)(2)(B), is Pub. L. 90–480, Aug. 12, 1968, 82 Stat. 718, as amended, which is classified generally to chapter 51 (§ 4151 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4151 of Title 42 and Tables.

CODIFICATION

"Administrative law judges" was substituted for "hearing examiners" in subsec. (e)(2) and (3) of this section, as added by section 118(d) of Pub. L. 95–602, as the probable intent of Congress in view of the amendment to subsec. (e) of this section by section 2(a)(8) of Pub. L. 95–251 (although prior in time to the amendment by Pub. L. 95–602) requiring such substitution wherever appearing in text.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–602, § 118(a), substituted provision permitting the President to appoint eleven members of the Board from the general public of whom five are to be handicapped, adding the head of the Department of Justice as a Board member, authorizing the President to appoint the first chairman, and providing for the term of office, reappointment, and compensation of Board members for provision restricting Board membership to the head of the Department of Health, Education, and Welfare, Department of Transportation, Department of Housing and Urban Development, Department of Labor, Department of Interior, Department of Defense, General Services Administration, United States Postal Service, and Veterans' Administration, appointing the Secretary of Health, Education, and Welfare as the chairman, and authorizing the appointment of a Consumer Advisory Panel, a majority of the members of which were to be handicapped, to provide guidance, advice, and recommendations to the Board.

Subsec. (b)(1). Pub. L. 95–602, § 118(b)(1), substituted provision requiring the Board to insure compliance with the standards of the Architectural Barriers Act of 1968, including application to the United States Postal Service, and to insure all waivers and modifications of standards are based on findings of fact and are not inconsistent with that Act or this section for provision requiring the Board to insure compliance with the standards prescribed by the General Services Administration, Department of Defense, and Department of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968.

Subsec. (b)(2). Pub. L. 95–602, § 118(b)(2), inserted "communication," preceding "and attitudinal" and "telecommunication devices," preceding "public buildings".

Subsec. (b)(7), (8). Pub. L. 95–602, § 118(b)(3), added pars. (7) and (8).

Subsec. (d). Pub. L. 95–602, § 118(c), designated existing provision as par. (1), and in par. (1) as so designated, substituted "public or private nonprofit organizations or contracts with private nonprofit or forprofit organizations" for "or contracts with public or private nonprofit organizations", "Except as provided in paragraph (3) of subsection (e) of this section, provisions" for "The provisions", "building or public conveyance or rolling stock found" for "building found", and "enforced under this section" for "prescribed pursuant to the Acts cited in subsection (b) of this section", inserted provision permitting a complainant or participant in a proceeding under this subsection to obtain review of a final order pursuant to chapter 7 of title 5, and added pars. (2) and (3).

Subsec. (e). Pub. L. 95–602, § 118(d), designated existing provisions as par. (1) and added pars. (2) and (3).

Pub. L. 95–251 substituted "administrative law judges" for "hearing examiners" wherever appearing.

Subsec. (h). Pub. L. 95–602, § 118(e), added subsec. (h). Former subsec. (h), which authorized appropriations for carrying out the duties and functions of the Board of $1,000,000 for each of the fiscal years ending June 30, 1974 and June 30, 1975, $1,500,000 for the fiscal year ending June 30, 1976, and $1,500,000 for each of the fiscal years ending Sept. 30, 1977 and Sept. 30, 1978, was struck out.

Subsec. (i). Pub. L. 95–602, § 118(e), added subsec. (i).

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this Chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 776, 794b of this title; title 42 section 4157.

§ 793. Employment under Federal contracts

(a) Amount of contracts or subcontracts; provision for employment and advancement of qualified handicapped individuals; regulations

Any contract in excess of $2,500 entered into by any Federal department or agency for the procurement of personal property and nonpersonal services (including construction) for the United States shall contain a provision requiring that, in employing persons to carry out such contract the party contracting with the United States shall take affirmative action to employ and advance in employment qualified handicapped individuals as defined in section 706(7) of this title. The provisions of this section shall apply to any subcontract in excess of $2,500 entered into by a prime contractor in carrying out any contract for the procurement of personal property and nonpersonal services (including construction) for the United States. The President shall implement the provisions of this section by promulgating regulations within ninety days after September 26, 1973.

[*See main edition for text of* (b) *and* (c)]

(As amended Pub. L. 95–602, title I, § 122(d)(1), Nov. 6, 1978, 92 Stat. 2987.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–602 substituted "section 706(7) of this title" for "section 706(6) of this title".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 721 of this title.

§ 794. Nondiscrimination under federal grants and programs; promulgation of rules and regulations

No otherwise qualified handicapped individual in the United States, as defined in section

706(7) of this title, shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.

(As amended Pub. L. 95-602, title I, §§ 119, 122(d)(2), Nov. 6, 1978, 92 Stat. 2982, 2987.)

REFERENCES IN TEXT

The amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978, referred to in text, mean the amendments made by Pub. L. 95-602. See 1978 Amendments note below.

AMENDMENTS

1978—Pub. L. 95-602 substituted "section 706(7) of this title" for "section 706(6) of this title" and inserted provision prohibiting discrimination under any program or activity conducted by any Executive agency or by the United States Postal Service and requiring the heads of these agencies to promulgate regulations prohibiting discrimination.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 706, 775, 794a, 876 of this title; title 20 sections 1232e, 3142; title 25 section 2005; title 31 section 1242; title 42 sections 5057, 6727.

§ 794a. Remedies and attorney fees

(a)(1) The remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), including the application of sections 706(f) through 706(k) (42 U.S.C. 2000e-5(f) through (k)), shall be available, with respect to any complaint under section 791 of this title, to any employee or applicant for employment aggrieved by the final disposition of such complaint, or by the failure to take final action on such complaint. In fashioning an equitable or affirmative action remedy under such section, a court may take into account the reasonableness of the cost of any necessary work place accommodation, and the availability of alternatives therefor or other appropriate relief in order to achieve an equitable and appropriate remedy.

(2) The remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] shall be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance or Federal provider of such assistance under section 794 of this title.

(b) In any action or proceeding to enforce or charge a violation of a provision of this subchapter, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

(Pub. L. 93-112, title V, § 505, as added Pub. L. 95-602, title I, § 120, Nov. 6, 1978, 92 Stat. 2982.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a)(2), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

§ 794b. Removal of architectural, transportation, or communication barriers; technical and financial assistance; compensation of experts or consultants; authorization of appropriations

(1) The Secretary may provide directly or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof, technical assistance—

(A) to persons operating rehabilitation facilities; and

(B) with the concurrence of the Board established by section 792 of this title, to any public or nonprofit agency, institution, or organization;

for the purpose of assisting such persons or entities in removing architectural, transportation, or communication barriers. Any concurrence of the Board under this paragraph shall reflect its consideration of the cost studies carried out by States under section 792(c)(1) of this title.

(2) Any such experts or consultants, while serving pursuant to such contracts, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily equivalent of the rate of basic pay payable for grade GS-18 of the General Schedule, under section 5332 of title 5, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(3) The Secretary, with the concurrence of the Board and the President may provide, directly or by contract, financial assistance to any public or nonprofit agency, institution, or organization for the purpose of removing architectural, transportation, and communication barriers. No assistance may be provided under this paragraph until a study demonstrating the need for such assistance has been conducted and submitted under section 792(h)(2) of this title.

(4) In order to carry out this section, there are authorized to be appropriated such sums as may be necessary.

(Pub. L. 93-112, title V, § 506, as added Pub. L. 95-602, title I, § 120, Nov. 6, 1978, 92 Stat. 2983.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 794c. Interagency Coordinating Council; membership; duties; annual report to President and Congress

There shall be established an Interagency Coordinating Council (hereinafter referred to in this section as the "Council") composed of the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Attorney General, the Director of the Office of Personnel Management, the Chairman of the Equal Employment Opportunity Commission, and the Chairman of the Architectural and Transportation Barriers Compliance Board. The Council shall have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this subchapter, and the regulations prescribed thereunder. On or before July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section. Nothing in this section shall impair any responsibilities assigned by any Executive Order to any Federal department, agency, or instrumentality to act as a lead Federal agency with respect to any provisions of this subchapter.

(Pub. L. 93–112, title V, § 507, as added Pub. L. 95–602, title I, § 120, Nov. 6, 1978, 92 Stat. 2983, and amended 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

AMENDMENT OF SECTION

Pub. L. 96–88, title V, § 508(m)(2), title VI, § 601(a), Oct. 17, 1979, 93 Stat. 694, 696, provided that, effective 180 days after the first Secretary of Education takes office, or on any earlier date on or after Oct. 1, 1979, as the President prescribes and publishes in the Federal Register, this section is amended by substituting "Secretary of Education, the Secretary of Health and Human Services" for "Secretary of Health, Education, and Welfare".

TRANSFER OF FUNCTIONS

"Director of the Office of Personnel Management" was substituted for "Chairman of the United States Civil Service Commission" pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in the chairman of the United States Civil Service Commission to the Director of the Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 5057.

SUBCHAPTER VI—EMPLOYMENT OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS [NEW]

PART A—COMMUNITY SERVICE EMPLOYMENT PILOT PROGRAMS FOR HANDICAPPED INDIVIDUALS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 702 of this title.

§ 795. Pilot programs

(a) Establishment

In order to promote useful opportunities in community service activities for handicapped individuals who have poor employment prospects, the Secretary of Labor (hereinafter in this part referred to as the "Secretary") is authorized to establish a community service employment pilot program for handicapped individuals. For purposes of this part, the term "eligible individuals" means persons who are handicapped individuals (as defined in section 706(7) of this title) and who are referred to programs under this part by designated State units.

(b) Agreements; factors determining eligibility for cost payments; rate of pay; certificate of exemption by Department of Labor

(1) The Secretary may enter into agreements with public or private nonprofit agencies or organizations, including national organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or tribal organizations in order to carry out the pilot program referred to in subsection (a) of this section. Such agreements may include provisions consistent with subsection (c) of this section for the payment of the costs of projects developed by such organizations and agencies in cooperation with the Secretary. No payment shall be made by the Secretary toward the cost of any such project unless the Secretary determines that:

(A) Such project will provide employment only for eligible individuals, except that if eligible individuals are not available to serve as technical, administrative, or supervisory personnel for a project then such personnel may be recruited from among other individuals.

(B) Such project will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities.

(C) Such project will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations, other than political parties, exempt from taxation under section 501(c)(3) of title 26, except for projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship.

(D) Such project will contribute to the general welfare of the community in which eligible individuals are employed under such project.

(E) Such project (i) will result in an increase in employment opportunities over

those opportunities which would otherwise be available, (ii) will not result in any displacement of currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits), and (iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed.

(F) Such project will not employ any eligible individual to perform work which is the same or substantially the same as that performed by any other person who is on layoff from employment with the agency or organization sponsoring such project.

(G) Such project will utilize methods of recruitment and selection (including the listing of job vacancies with the State agency units designated under section 721(a)(2)(A) of this title to administer vocational rehabilitation services under this chapter) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project.

(H) Such project will provide for (i) such training as may be necessary to make the most effective use of the skills and talents of individuals who are participating in the project, and (ii) during the period of such training, a reasonable subsistence allowance for such individuals and the payment of any other reasonable expenses related to such training.

(I) Such project will provide safe and healthy working conditions for any eligible individual employed under such project and will pay any such individual at a rate of pay not lower than the rate of pay described in paragraph (2).

(J) Such project will be established or administered with the advice of (i) persons competent in the field of service in which employment is being provided, and (ii) persons who are knowledgeable with regard to the needs of handicapped individuals.

(K) Such project will pay any reasonable costs for work-related expenses, transportation, and attendant care incurred by eligible individuals employed under such project in accordance with regulations prescribed by the Secretary.

(L) Such project will provide appropriate placement services for employees under the project to assist them in locating unsubsidized employment when the Federal assistance for the project terminates.

(2) The rate of pay referred to in subparagraph (I) of paragraph (1) is the highest of the following:

(A) the prevailing rate of pay for persons employed in similar occupations by the same employer.

(B) The minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938 [29 U.S.C. 201 et seq.] if such employee were not exempt from such Act under section 13 thereof [29 U.S.C. 213].

(C) The State or local minimum wage for the most nearly comparable covered employment.

The Department of Labor shall not issue any certificate of exemption under section 14(c) of the Fair Labor Standards Act of 1938 [29 U.S.C. 214(c)] with respect to any person employed in a project under this section.

(c) Cost payments; non-Federal share

(1) The Secretary may pay not to exceed 90 percent of the cost of any project which is the subject of an agreement entered into under subsection (b) of this section. Notwithstanding the preceding sentence, the Secretary may pay all of the costs of any such project which is (A) an emergency or disaster project, or (B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Director of the Community Services Administration.

(2) The non-Federal share of any project under this part may be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to services and facilities contributed from non-Federal sources.

(d) Method of payments

Payments under this part may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.

(Pub. L. 93-112, title VI, § 611, as added Pub. L. 95-602, title II, § 201, Nov. 6, 1978, 92 Stat. 2989.)

REFERENCES IN TEXT

The Fair Labor Standards Act of 1938, referred to in subsec. (b)(2), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified principally to chapter 8 (§ 201 et seq.) of this title. For complete classification of this Act to the Code, see section 201 of this title and Tables.

SHORT TITLE

For citation of this subchapter as the "Employment Opportunities for Handicapped Individuals Act", see section 601 of Pub. L. 93-112 set out as a Short Title of 1978 Amendment note under section 701 of this title.

§ 795a. Administration

(a) Consultation with designated State unit

In order to effectively carry out the provisions of this part, the Secretary shall, through the Commissioner of the Rehalibitation[1] Services Administration, consult with any designated State unit with regard to—

(1) the localities in which community service projects of the type authorized by this part are most needed;

(2) the employment situations and types of skills possessed by eligible individuals in such localities; and

(3) potential projects suitable for funding in such localities.

(b) Coordination with other programs

The Secretary shall coordinate the pilot program established under this part with programs

[1] So in original. Probably should read "Rehabilitation".

authorized under the Emergency Jobs and Unemployment Assistance Act of 1974, the Comprehensive Employment and Training Act of 1973 [29 U.S.C. 801 et seq.], the Community Services Act of 1974 [42 U.S.C. 2711 et seq.], and the Emergency Employment Act of 1971 [42 U.S.C. 4871 et seq.]. Appropriations under this part may not be used to carry out any program under the Acts referred to in the preceding sentence.

(c) Use of services, equipment, personnel, and facilities of other agencies

In carrying out this part, the Secretary may, with the consent of any other Federal, State, or local agency, use the services, equipment, personnel, and facilities of such agency with or without providing such agency with reimbursement and may use the services, equipment, and facilities of any other public or private entity on a similar basis.

(d) Promulgation of regulations; publication in Federal Register

Within one hundred and eighty days after the effective date of this part, the Secretary shall issue and publish in the Federal Register such regulations as may be necessary to carry out this part.

(e) Delegation of functions

The Secretary shall not delegate any function of the Secretary under this part to any other department or agency of the Federal Government.

(Pub. L. 93–112, title VI, § 612, as added Pub. L. 95–602, title II, § 201, Nov. 6, 1978, 92 Stat. 2991.)

REFERENCES IN TEXT

The Emergency Jobs and Unemployment Assistance Act of 1974, referred to in subsec. (b), is Pub. L. 93–567, Dec. 31, 1974, 88 Stat. 1845, as amended, which enacted sections 961 to 966 of this title and sections 3246 to 3246g of Title 42, The Public Health and Welfare, amended sections 841, 842, 844, 845, 849 to 851, 981, and 983 of this title and section 1244 of Title 20, Education, and enacted provisions set out as notes under section 3304 of Title 26, Internal Revenue Code, and section 2002 of Title 38, Veterans' Benefits. For complete classification of this Act to the Code, see Short Title of 1974 Amendment note set out under section 801 of this title and Tables.

The Comprehensive Employment and Training Act of 1973, referred to in subsec. (b), is Pub. L. 93–203, Dec. 28, 1973, 87 Stat. 839, which is classified generally to chapter 17 (§ 801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

The Community Services Act of 1974, referred to in subsec. (b), is Pub. L. 88–452, titles I to IX, Aug. 20, 1964, 78 Stat. 508, as amended, which is classified generally to subchapters I (§ 2711 et seq.), II (§ 2781 et seq.), III (§ 2841 et seq.), IV (§ 2901 et seq.), V (§ 2921 et seq.), VI (§ 2941 et seq.), VII (§ 2981 et seq.), VIII (§ 2991 et seq.), and IX (§ 2995 et seq.), respectively, of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title of 1975 Amendments note set out under section 2701 of Title 42 and Tables.

The Emergency Employment Act of 1971, referred to in subsec. (b), is Pub. L. 92–54, July 12, 1971, 85 Stat. 146, as amended, which was classified generally to chapter 64 (§ 4871 et seq.) of Title 42, The Public Health and Welfare, and was omitted from the Code. For prior classification of this Act to the Code, see Tables.

The effective date of this part, referred to in subsec. (d), probably means the date of enactment of this part, which was Nov. 6, 1978.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 795b. Employment

(a) Participants not considered Federal employees

Eligible individuals who are employed in any project funded under this part shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5.

(b) Workmen's compensation coverage

No contract shall be entered into under this part with a contractor who is, or whose employees are, under State law, exempted from operation of any State workmen's compensation law generally applicable to employees, unless the contractor shall undertake to provide for persons to be employed under such contract, through insurance by a recognized carrier or by self-insurance authorized by State law, workmen's compensation coverage equal to that provided by law for covered employment.

(c) Wages, allowances, etc., as income and benefits for purposes of other programs

No part of the wages, allowances, or reimbursement for transportation and attendant care costs made available to an eligible individual employed in any project funded under this part shall be treated as income or benefits for the purpose of any other program or provision of State or Federal law, unless the Secretary makes a case by case determination that disallowance of such income or benefits is inequitable or does not carry out the purposes of this subchapter.

(Pub. L. 93–112, title VI, § 613, as added Pub. L. 95–602, title II, § 201, Nov. 6, 1978, 92 Stat. 2991.)

§ 795c. Interagency cooperation

(a) The Secretary shall consult with, and obtain the written views of, the Commissioner of the Rehabilitation Services Administration before establishing rules or general policy in the administration of this part.

(b) The Secretary shall consult and cooperate with the Director of the Community Services Administration, the Secretary of Health, Education, and Welfare, and the heads of other Federal agencies carrying out related programs, in order to achieve maximum coordination between such programs and the program established under this part. Each Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this part and in identifying individuals eligible for employment in projects assisted under this part.

(Pub. L. 93–112, title VI, § 614, as added Pub. L. 95–602, title II, § 201, Nov. 6, 1978, 92 Stat. 2992.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 795d. Award of grants or contracts

(a) Preference; equitable distribution among States; determination of allotment

(1) Preference in awarding grants or contracts under this part shall be given to organizations of proven ability in providing employment services to handicapped individuals under this program and similar programs. The Secretary, in awarding grants and contracts under this section, shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts among the States, taking into account the needs of underserved States.

(2) The Secretary shall allot for projects within each State the sums appropriated for any fiscal year under section 795 of this title so that each State will receive an amount which bears the same ratio to such sums as the population of the State bears to the population of all the States.

(b) Reallotment

The amount allotted for projects within any State under subsection (a) of this section for any fiscal year which the Secretary determines will not be required for such year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to projects within other States in proportion to the original allotments to projects within such States under subsection (a) of this section for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) of this section for such year.

(c) Apportionment among areas within each State

The amount apportioned for projects within each State under subsection (a) of this section shall be apportioned among areas within each such State in an equitable manner, taking into consideration (1) the proportion which eligible individuals in each such area bears to the total number of such individuals, respectively, in that State, and (2) the relative distribution of such individuals residing in rural and urban areas within the State.

(Pub. L. 93-112, title VI, § 615, as added Pub. L. 95-602, title II, § 201, Nov. 6, 1978, 92 Stat. 2992.)

§ 795e. Definitions

For purposes of this part—

(1) the term "community service" means social, health, welfare, and educational services, legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; economic development; and such other services essential and necessary to the community as the Secretary, by regulation, may prescribe;

(2) the term "pilot program" means the community service employment program for handicapped individuals established under this part; and

(3) the term "attendant care" means interpreter services for the deaf, reader services for the blind, and services provided to assist mentally retarded individuals to perform duties of employment.

(Pub. L. 93-112, title VI, § 616, as added Pub. L. 95-602, title II, § 201, Nov. 6, 1978, 92 Stat. 2993.)

§ 795f. Authorization of appropriations

There are authorized to be appropriated to carry out the purposes of this part $35,000,000 for the fiscal year ending September 30, 1979, $50,000,000 for the fiscal year ending September 30, 1980, $75,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982.

(Pub. L. 93-112, title VI, § 617, as added Pub. L. 95-602, title II, § 201, Nov. 6, 1978, 92 Stat. 2993.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 795d of this title.

PART B—PROJECTS WITH INDUSTRY AND BUSINESS OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 721 of this title.

§ 795g. Projects with industry

(a) Agreements; joint financing

(1) The Commissioner, in consultation with the Secretaries of Labor and Commerce and with designated State units, may enter into agreements with individual employers and other entities to establish jointly financed projects which—

(A) shall provide handicapped individuals with training and employment in a realistic work setting in order to prepare them for employment in the competitive market;

(B) shall provide handicapped individuals with such supportive services as may be required to permit them to continue to engage in the employment for which they have received training under this section; and

(C) shall, to the extent appropriate, expand job opportunities for handicapped individuals by providing for (i) the development and modification of jobs to accommodate the spe-

cial needs of such individuals, (ii) the distribution of special aids, appliances, or adapted equipment to such individuals, (iii) the establishment of appropriate job placement services, and (iv) the modification of any facilities or equipment of the employer which are to be used primarily by handicapped individuals.

(2) Any agreement under this subsection shall be jointly developed by the Commissioner, the prospective employer, and, to the extent practicable, the appropriate designated State unit and the handicapped individuals involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c) of this section), and contain the items required under subsection (b) of this section and such other provisions as the parties to the agreement consider to be appropriate.

(b) Requirements for payment

No payment shall be made by the Commissioner under any agreement with an employer entered into under subsection (a) of this section unless such agreement—

(1) provides assurances that handicapped individuals placed with such employer shall receive at least the applicable minimum wage;

(2) specifies that the Commissioner, together with the designated State unit, has the right to review any termination of employment, and that, in the event such termination occurs less than three years after the date of the commencement of employment of the handicapped individual involved, the Commissioner shall be entitled to require the repayment of a portion of the funds made available to the employer if such termination is without reasonable cause, as determined by the Commissioner in consultation with such designated State unit; and

(3) provides assurances that any handicapped individual placed with such employer shall be afforded terms and benefits of employment equal to those which are afforded to other employees of such employer, and that such handicapped individuals shall not be unreasonably segregated from other employees.

(c) Amount of payments

Payments under this section with respect to any project may not exceed 80 per centum of the costs of the project.

(Pub. L. 93-112, title VI, § 621, as added Pub. L. 95-602, title II, § 201, Nov. 6, 1978, 92 Stat. 2993.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 795h. Business opportunities for handicapped; promulgation of regulations

The Commissioner, in consultation with the Secretaries of Labor and Commerce, may make grants to, or enter into contracts with, handicapped individuals to enable them to establish or operate commercial or other enterprises to develop or market their products or services. Within ninety days after November 6, 1978, the Commissioner shall promulgate regulations to carry out this section, including regulations specifying (1) the maximum amount of money which may be provided under this section to any participant, and (2) procedures for certification, by designated State units, of individuals eligible to participate in any program under this section.

(Pub. L. 93-112, title VI, § 622, as added Pub. L. 95-602, title II, § 201, Nov. 6, 1978, 92 Stat. 2994.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 795i. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part for each fiscal year beginning before October 1, 1982.

(Pub. L. 93-112, title VI, § 623, as added Pub. L. 95-602, title II, § 201, Nov. 6, 1978, 92 Stat. 2994.)

SUBCHAPTER VII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING [NEW]

PART A—COMPREHENSIVE SERVICES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 796i of this title.

§ 796. Congressional statement of purpose

The purpose of this subchapter is to authorize grants (supplementary to grants for vocational rehabilitation services under subchapter I of this chapter) to assist States in providing comprehensive services for independent living designed to meet the current and future needs of individuals whose disabilities are so severe that they do not presently have the potential for employment but may benefit from vocational rehabilitation services which will enable them to live and function independently.

(Pub. L. 93-112, title VII, § 701, as added Pub. L. 95-602, title III, § 301, Nov. 6, 1978, 92 Stat. 2995.)

§ 796a. Eligibility requirements; definition

Services may be provided under this subchapter to any individual whose ability to engage or continue in employment, or whose ability to function independently in his family or community, is so limited by the severity of his disability that vocational or comprehensive rehabilitation services appreciably more costly and of appreciably greater duration than those vocational or comprehensive rehabilitation services required for the rehabilitation of a

handicapped individual are required to improve significantly either his ability to engage in employment or his ability to function independently in his family or community. Priority of services under this part shall be given to individuals not served by other provisions of this chapter.

(b)[1] For purposes of this subchapter, the term "comprehensive services for independent living" means any appropriate vocational rehabilitation service (as defined under subchapter I of this chapter) and any other service that will enhance the ability of a handicapped individual to live independently and function within his family and community and, if appropriate, secure and maintain appropriate employment. Such services may include any of the following: counseling services, including psychological, psychotherapeutic, and related services; housing incidental to the purpose of this section (including appropriate accommodations to and modifications of any space to serve handicapped individuals); appropriate job placement services; transportation; attendant care; physical rehabilitation; therapeutic treatment; needed prostheses and other appliances and devices; health maintenance; recreational activities; services for children of preschool age, including physical therapy, development of language and communication skills, and child development services; and appropriate preventive services to decrease the needs of individuals assisted under the program for similar services in the future.

(Pub. L. 93-112, title VII, § 702, as added Pub. L. 95-602, title III, § 301, Nov. 6, 1978, 92 Stat. 2995.)

§ 796b. Allotments

(a) Determination of amount; territories

(1) From sums made available for each fiscal year for the purposes of allotments under this subpart[2], each State whose comprehensive services plan has been approved under section 796d of this title shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States. Except as provided in paragraph (2), the allotment to any State under the preceding sentence shall be not less than $200,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year which is less than $200,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts.

(2) For purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall not be considered as States and shall each be allotted not less than one-eighth of 1 percent of the amounts made available for purposes of this subpart [2] for the fiscal year for which the allotment is made.

(b) Proportional reduction; adjustments

Amounts necessary to increase the allotments of States under paragraph (1) or to provide allotments under paragraph (2) shall be derived by proportionately reducing the allotments of the remaining States under paragraph (1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $200,000 or one-third of 1 percent of the sums made available for purposes of this subpart[1] for the fiscal year for which the allotment is made.

(c) Reallotment

Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this subchapter, he shall make such amount available for carrying out the purposes of this section to one or more of the States which he determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

(Pub. L. 93-112, title VII, § 703, as added Pub. L. 95-602, title III, § 301, Nov. 6, 1978, 92 Stat. 2996.)

Transfer of Functions

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

Section Referred to in Other Sections

This section is referred to in section 796c of this title.

§ 796c. Payments to States from allotments; Federal share

(a) From each State's allotment for a fiscal year under section 796b of this title, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 796d of this title. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

(b)(1) The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 796d of this title.

(2) The non-Federal share of the cost of any project assisted by an allotment under this subpart[1] may be provided in kind.

(3) For the purpose of determining the Federal share with respect to any State, expenditures

---

[1] First paragraph enacted without designation (a).

[2] So in original. This part was enacted without subparts.

[1] So in original. This part was enacted without subparts.

by a political subdivision of such State shall, subject to regulations prescribed by the Commissioner, be regarded as expenditures by such State.

(Pub. L. 93-112, title VII, § 704, as added Pub. L. 95-602, title III, § 301, Nov. 6, 1978, 92 Stat. 2997.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 796d. State plans; approval or disapproval by Commissioner

(a) In order to be eligible for grants under this part, a State shall submit to the Commissioner a State plan for a three-year period for providing comprehensive services for independent living to severely handicapped individuals, and, upon request of the Commissioner, shall make such annual revisions in the plan as may be necessary. Each such plan shall—

(1) designate the designated State unit of such State as the agency to administer the programs funded under this part;

(2) demonstrate that the State has studied and considered a wide variety of methods for providing comprehensive services to severely handicapped individuals (such as regional and community centers, halfway houses, and patient-release programs) and that the State will provide, to the maximum extent feasible, meaningful alternatives to institutionalization;

(3)(A) describe the quality, scope, and extent of the comprehensive services for independent living to be provided to handicapped individuals under this part, and specify the State's goals and plans with respect to the distribution of funds received under part B of this subchapter; and

(B) provide satisfactory assurances that facilities used in connection with the delivery of services assisted under this part and part B of this subchapter will comply with the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968 [42 U.S.C. 4151 et seq.];

(4) provide assurances that (A) an individualized written rehabilitation program meeting the requirements of section 722 of this title will be developed for each handicapped individual eligible for independent living services under this part; (B) such services will be provided in accordance with such program; and (C) that such program be coordinated with the individualized written rehabilitation program, habilitation plan, or education program for such individual required under section 722 of this title, section 6011 of title 42, and sections 1412(4) and 1414(a)(5) of title 20, respectively;

(5) provide assurances that the State will conduct periodic reviews of the progress of individuals assisted under this subchapter to determine whether services provided to such individuals should be continued, modified, or discontinued;

(6) provide assurances that special efforts will be undertaken to provide technical assistance to urban and rural poverty areas with respect to the provision of comprehensive services for severely handicapped individuals and describe such efforts;

(7) provide assurances that handicapped individuals shall have a substantial role in developing the State plan;

(8) provide assurances that not less than 20 percent of the funds received by a State under this part shall be used to make grants to local public agencies and private nonprofit organizations for the conduct of independent living services except that the Commissioner may waive the requirement of this clause if the Commissioner determines, on the basis of evidence submitted by the State, that such State cannot feasibly use the funds required to be expended under this section for the purposes of this clause; and

(9) contain such other information, and be submitted in such form and in accordance with such procedures, as the Commissioner may require.

(b) As soon as practicable after receiving a State plan submitted under subsection (a) of this section, the Commissioner shall approve or disapprove such plan. The Commissioner shall approve any State plan which he determines meets the requirements and purposes of this section. The provisions of subsections (b), (c), and (d) of section 721 of this title shall apply to any State plan submitted to the Commissioner pursuant to this section, except that for purposes of this section, all references in such subsections to the Secretary shall be deemed to be references to the Commissioner.

(Pub. L. 93-112, title VII, § 705, as added Pub. L. 95-602, title III, § 301, Nov. 6, 1978, 92 Stat. 2997.)

REFERENCES IN TEXT

The Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, referred to in subsec. (a)(3)(B), is Pub. L. 90-480, Aug. 12, 1968, 82 Stat. 718, as amended, which is classified generally to chapter 51 (§ 4151 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4151 of Title 42 and Tables.

Sections 1412(4) and 1414(a)(5) of title 20, referred to in subsec. (a)(4), in the original read "sections 612(4) and 614(a)(5) of the Education for All Handicapped Children Act of 1975". Such Act is Pub. L. 94-142, Nov. 29, 1975, 89 Stat. 773, which does not contain a section 612 or 614. The reference to such sections 612 and 614 probably mean sections 612(4) and 614(a)(5) of Pub. L. 91-230, title VI, Apr. 13, 1970, 84 Stat. 178, 179, known as the Education of the Handicapped Act, which is classified to sections 1412(4) and 1414(a)(5) of Title 20, Education.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 796b, 796c, 796e, 796f of this title.

PART B—CENTERS FOR INDEPENDENT LIVING

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 796d, 796i of this title.

§ 796e. Establishment and operation of independent living centers

(a) Grant program; designated State unit

The Commissioner may make grants to any designated State unit which administers the State plan under section 796d of this title to provide for the establishment and operation of independent living centers, which shall be facilities offering the services described in subsection (c)(2) of this section.

(b) Application; contents

No grant may be made under this section unless an application therefore has been submitted to and approved by the Commissioner. The Commissioner may not approve an application for a grant unless the application—

(1) contains assurances that the designated State unit will use funds provided by such grant in accordance with subsection (c) of this section; and

(2) contains such other information, and is submitted in such form and in accordance with such procedures, as the Commissioner may require.

(c) Application by public or nonprofit agency or organization; contents

An application by a public or nonprofit agency or organization for such grant shall—

(1) provide assurances that handicapped individuals will be substantially involved in policy direction and management of such center, and will be employed by such center;

(2) contain assurances that the independent living center to be assisted by such grant shall offer handicapped individuals a combination of independent living services, including as appropriate—

(A) intake counseling to determine the client's need for specific rehabilitation services;

(B) referral and counseling services with respect to attendant care;

(C) counseling and advocacy services with respect to legal and economic rights and benefits;

(D) independent living skills, counseling, and training, including such programs as training in the maintenance of necessary equipment and in jobseeking skills, counseling on therapy needs and programs, and special programs for the blind and deaf;

(E) housing and transportation referral and assistance;

(F) surveys, directories, and other activities to identify appropriate housing and accessible transportation, and other support services;

(G) health maintenance programs;

(H) peer counseling;

(I) community group living arrangements;

(J) education and training necessary for living in the community and participating in community activities;

(K) individual and group social and recreational activities;

(L) other programs designed to provide resources, training, counseling, services, or other assistance of substantial benefit in promoting the independence, productivity, and quality of life of handicapped individuals;

(M) attendant care and training of personnel to provide such care; and

(N) such other services as may be necessary and not inconsistent with the provisions of this subchapter; and

(3) contain such other information, and be submitted in such form and in accordance with such procedures, as the Commissioner may require.

(d) Failure of designated State unit to apply; applications from local public agencies or private nonprofit organizations

If, within six months after the date in each fiscal year on which the Commissioner begins to accept applications from designated State units under this section, a designated State unit in a State has not submitted such an application, the Commissioner may accept applications for grants under this section from local public agencies or private nonprofit organizations within such State. After the receipt of such applications, the Commissioner may make grants to such agencies or organizations for the purpose of establishing independent living centers to provide the services described in subsection (c)(2) of this section.

(Pub. L. 93-112, title VII, § 711, as added Pub. L. 95-602, title III, § 301, Nov. 6, 1978, 92 Stat. 2998.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

PART C—INDEPENDENT LIVING SERVICES FOR OLDER BLIND INDIVIDUALS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 796i of this title.

§ 796f. Establishment of service programs

(a) Grants to designated State units

The Commissioner may make grants to any designated State unit to provide independent living services to older blind individuals. Such services shall be designed to assist an older blind individual to adjust to his blindness by becoming more able to care for his individual needs. Such services may include—

(1) services to help correct blindness such as (A) outreach services, (B) visual screening, (C) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions, and (D) hospitalization related to such services;

(2) the provision of eyeglasses and other visual aids;

(3) the provision of services and equipment to assist an older blind individual to become

more mobile and more able to care for himself;

(4) mobility training, Braille instruction, and other services and equipment to help an older blind individual adjust to blindness;

(5) guide services, reader services, and transportation; and

(6) any other appropriate services designed to assist a blind person in coping with daily living activities, including supportive services or rehabilitation teaching services.

(b) Application; contents

No grant may be made under this section unless an application therefor, containing such information as the Commissioner may require, has been submitted to and approved by the Commissioner. The Commissioner may not approve any application for a grant unless the application contains assurances that the designated State unit will seek to incorporate any new methods and approaches relating to the services described in subsection (a) of this section into its State plan for independent living services under section 796d of this title.

(c) Grants to public or private nonprofit agencies or organizations by designated State unit

Funds received under this section by any designated State unit may be used to make grants to public or private nonprofit agencies or organizations to—

(1) conduct activities which will improve or expand services for older blind individuals and help improve public understanding of the problems of such individuals; and

(2) provide independent living services to older blind individuals in accordance with the provisions of subsection (a) of this section.

(d) Definition

For purposes of this section, the term "older blind individual" means an individual aged fifty-five or older whose severe visual impairment makes gainful employment extremely difficult to attain but for whom independent living goals are feasible.

(Pub. L. 93-112, title VII, § 721, as added Pub. L. 95-602, title III, § 301, Nov. 6, 1978, 92 Stat. 2999.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

PART D—GENERAL PROVISIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 796i of this title.

§ 796g. Protection and advocacy of individual rights

(a) The Commissioner may make grants to States to establish systems to protect and advocate the rights of severely handicapped individuals. In order to be eligible for a grant under this section, a State shall provide the Commissioner with assurances that any system established with grants made under this section shall have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such individuals receiving services under this subchapter within the State. A State must provide that such system will be independent of any designated State unit that provides services under this part to such individuals.

(b) No grant may be made under this section unless an application therefor has been submitted to the Commissioner containing such information and in such form and in accordance with such procedures as the Commissioner may, by regulation, prescribe.

(Pub. L. 93-112, title VII, § 731, as added Pub. L. 95-602, title III, § 301, Nov. 6, 1978, 92 Stat. 3000.)

CODIFICATION

Another section 731 of Pub. L. 93-112 is set out as section 796i of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 796h. Employment of handicapped individuals

As a condition of providing assistance under this subchapter, the Secretary shall require that each recipient of assistance take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals under the provisions of this chapter which govern employment (1) by State rehabilitation agencies and rehabilitation facilities, and (2) under Federal contracts and subcontracts.

(Pub. L. 93-112, title VII, § 732, as added Pub. L. 95-602, title III, § 301, Nov. 6, 1978, 92 Stat. 3000.)

TRANSFER OF FUNCTIONS

For transfer of functions and offices of the Secretary and Department of Health, Education, and Welfare, including the Rehabilitation Services Administration and the Commissioner thereof, under this chapter to the Secretary and Department of Education, see section 3441 of Title 20, Education.

PART E—AUTHORIZATIONS

§ 796i. Authorization of appropriations

(a) For the purpose of carrying out the provisions of Parts A, B, and C of this subchapter, there are authorized to be appropriated $80,000,000 for the fiscal year ending September 30, 1979, $150,000,000 for the fiscal year ending September 30, 1980, $200,000,000 for the fiscal year ending September 30, 1981, and such sums as may be necessary for the fiscal year ending September 30, 1982.

(b) From the amounts authorized to be appropriated under this section, an amount shall be made available for the purpose of carrying out the provisions of Part C of this subchapter in an amount not in excess of 10 percent of the

amount made available for carrying out the provisions of subpart 1[1] of Part A of this subchapter.

(c)(1) For the purpose of carrying out Part D of this subchapter, there are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years, but in no event shall such sums exceed $6,000,000 for the fiscal year ending September 30, 1979, $7,500,000 for the fiscal year ending September 30, 1980, and $9,000,000 for the fiscal year ending September 30, 1981.

(2) The provisions of section 1913 of title 18 shall be applicable to all moneys authorized under the provisions of this subsection.

(Pub. L. 93-112, title VII, § 731, as added Pub. L. 95-602, title III, § 301, Nov. 6, 1978, 92 Stat. 3001.)

CODIFICATION

Another section 731 of Pub. L. 93-112 is set out as section 796g of this title.

CHAPTER 17—COMPREHENSIVE EMPLOYMENT AND TRAINING PROGRAMS

Sec.
801. Congressional statement of purpose.
802. Definitions.
803. Veterans [New].
(a) Increased participation in public service employment programs and job training opportunities.
(b) Responsibilities of Secretary of Labor.
(c) Consultation with Administrator of Veterans' Affairs.

SUBCHAPTER I—ADMINISTRATIVE PROVISIONS

PART A—ORGANIZATIONAL PROVISIONS

811. Prime sponsors.
(a) Qualifications of sponsorship.
(b) Restrictions on States or units of local governments.
(c) Notice of intent; designation by Secretary.
(d) Assistance by area planning bodies.
812. Authority of Secretary to provide services.
813. Comprehensive employment and training plan.
(a) Submission to Secretary; contents.
(b) Annual plan; contents.
(c) Establishment of procedures.
814. Review of comprehensive employment and training plans.
(a) Transmission and availability of plan for review and comment.
(b) Consideration of recommendations and comments.
(c) Compliance review by Secretary; requirements for approval.
(d) Disapproval of plan; notice and hearing.
(e) Date for submission of annual plan; regulations requiring change in plan prohibited.
815. Governor's coordination and special services plan.
(a) Submission by State to Secretary.
(b) Contents.
(c) Approval by Secretary.
816. Complaints and sanctions.
(a) Establishment and maintenance of grievance procedures.
(b) Investigation of complaints by Secretary.
(c) Revocation of plan and termination of financial assistance thereunder for discrimination and other failures of prime sponsor.
(d) Termination or suspension of financial assistance for noncompliance with requirements of this chapter.
(e) Emergency termination or suspension of financial assistance; subsequent hearing; restriction on delegation of authority.
(f) Corrective measures respecting discriminatory practices.
(g) Withholding of funds.
(h) Use of services of State and local agencies and their employees; reimbursement.
(i) Notice of intended actions; opportunity for resolution.
(j) Unified audit program.
(k) Liability of prime sponsors.
(l) Civil actions or other remedies.
817. Judicial review.
818. Reallocation of funds.
819. Prime sponsor's planning council.
(a) Establishment.
(b) Membership.
(c) Appointment of members; designation of chairperson; staff.
(d) Meetings.
(e) Duties and functions of council; weight given to recommendations of council.
(f) Consideration of comments and recommendations of private industry council.
820. State employment and training council.
821. Consultation.
822. Authorization of appropriations.

PART B—GENERAL PROVISIONS

823. Conditions applicable to all programs.
824. Special conditions applicable to public service employment.
825. Administrative provisions.
(a) Restriction on arrangements for training and employment programs in lower wage industries.
(b) Sharing of plan between prime sponsor and other recipients.
(c) Inclusion of work on projects for near poor in weatherization projects under this chapter; adequate number of skilled supervisory personnel; facilitation and extension of weatherization projects; regulations respecting work on rehabilitation of housing for lower-income families.
(d) Basis of allocation; publication of proposed amount and formula.
(e) Eligibility of unemployed persons.
(f) Pooling of funds.
(g) Establishment of standards and procedures.
(h) Retention of generated income.
(i) Responsibilities of recipients.
(j) Payment of placement fees prohibited.
(k) Notification of Governor and prime sponsor.
(l) Special consideration to effective community-based organization.
(m) Assistance to Native American entities.

[1] So in original. Part A of this subchapter was enacted without subparts.

Sec.
826. Wages and allowances.
827. Labor standards.
828. Powers of Secretary.
(a) Authority to prescribe rules and regulations; assessment respecting adequacy of prime sponsor's proposed performance and placement goals.
(b) Authority to make grants, contracts, and agreements, establish procedures, and make payments with regard to funds made available under this chapter.
(c) Delegation of authority within Department of Labor.
(d) Reduction of compliance costs.
(e) Consolidation of reports.
(f) Effectiveness of contracting authority.
829. Reports.
(a) Employment and occupational requirements, resources, use, and training.
(b) Use of social services, community colleges, etc., to carry out training programs supported by this chapter and related Acts.
(c) Evaluation of all programs and activities conducted under this chapter.
(d) Collection of information from annual reports and evaluations.
(e) Recommendations for program modifications; action taken by Secretary to reduce costs of compliance.
(f) Administrative changes made or proposed to improve monitoring and auditing activities of the Department.
(g) Evaluations and pilot and demonstration projects conducted with funds made available under this chapter.
(h) Efforts to reduce paperwork and reports.
(i) Availability of reports, evaluation, etc., to congressional committees.
(j) Legislative changes designed to increase the representatives and independence of prime sponsor's planning council.
829a. Development of methods to ascertain energy development and conservation employment impact data; presentation of best available data to Secretary of Energy, Secretary of Housing and Urban Development, Director of the Office of Management and Budget, and committees of Congress.
830. Services and property.
831. Utilization of services and facilities.
832. Interstate agreements.
833. Political activities prohibited.
834. Discrimination.
(a) General prohibition.
(b) Enforcement powers of Secretary.
(c) Civil action by Attorney General; jurisdiction; relief.
(d) Additional enforcement power of Secretary under section 2000d-1 of title 42.
(e) Citizenship of participant.
(f) Review of adequacy of outreach, training, etc., respecting handicapped individuals; inclusion in annual report.
835. Records, audits, and investigations.
836. Bonding.
837. Office of Management Assistance; establishment; assignment of accountants, management specialists, and other professionals, reimbursement.

SUBCHAPTER II—COMPREHENSIVE EMPLOYMENT AND TRAINING SERVICES

PART A—FINANCIAL ASSISTANCE PROVISIONS

Sec.
841. Congressional statement of purpose.
842. Allocation of funds.
(a) Basis for percentage of amount allocated.
(b) Grants for supplemental vocational education assistance.
(c) Allocation for costs of State employment and training council.
(d) Allocation for encouraging coordination between prime sponsors and educational agencies, etc., and for services for eligible participants delivered by employment and training councils.
(e) Allocation for Governor's coordination and special services under section 815 of this title.
(f) Allocation of remaining funds.
(g) Allocation for support of prime sponsor planning councils.
843. Conditions for receipt of financial assistance.
(a) Submission of comprehensive employment and training plan.
(b) Allocation restriction.
(c) Assurances respecting agreements with State or local educational agencies or post-secondary educational institutions for conduct of employment and training programs.
844. Supplemental vocational education assistance.
(a) Grants to Governors; consultation with designated representatives of State agencies and councils.
(b) Allocation of funds.
(c) Use of funds.
845. Participant assessment.

PART B—SERVICES FOR THE ECONOMICALLY DISADVANTAGED

846. Description of program.
847. Limitations on use of funds.
848. Eligibility for participation.
849. Services for youth.
850. Services for older workers.
851. Services for public assistance recipients.

PART C—UPGRADING AND RETRAINING

852. Occupational upgrading and retraining programs.
(a) Financial assistance to public and private employers for program costs.
(b) Prime sponsor to conduct retraining programs directly or through agreements with public and private employers or other educational agencies.
(c) Affect of collective bargaining agreements upon agreement with employers.

PART D—TRANSITIONAL EMPLOYMENT OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED

853. Congressional statement of purpose.
854. Financial assistance.
855. Allocation of funds.
(a) Allocations among prime sponsors.
(b) Reservation of funds for Native American entities.
(c) Amount allocated to prime sponsors.
(d) Allocation of remaining funds.
(e) Use of average annual date.
856. Expenditure of funds.
857. Applicability of section 966 of this title.

Sec.
858. Eligibility.
859. Payment of wages.

SUBCHAPTER III—SPECIAL FEDERAL RESPONSIBILITIES

PART A—SPECIAL NATIONAL PROGRAMS AND ACTIVITIES

871. Special programs and activities.
(a) Use of funds for employment and training programs; requirements.
(b) Financial assistance respecting programs for displaced homemakers, offenders, persons of limited English-speaking ability, and handicapped individuals.
(c) Report to Congress.
(d) Supplementary use of funds.
(e) Coordination with other programs.
(f) Eligibility requirements for programs for workers age fifty-five and older.
(g) Local workshops.
872. Native American employment and training program.
(a) Congressional findings.
(b) Congressional declarations.
(c) Utilization of Indian tribes, bands, or groups; submission of plan.
(d) Approval of Indian tribes, bands, or groups for utilization of public or private agencies.
(e) Administrative procedures and machinery.
(f) Availability of funds.
(g) Reservation of funds.
(h) Federal Government's trust responsibility to Indians not abrogated.
873. Migrant and seasonal farmworker employment and training programs.
(a) Congressional findings and declarations.
(b) Use of public agencies and private nonprofit organizations to meet employment and training needs.
(c) Preferential weighting factor respecting award of grants and contracts; continuation of existing programs; reservation of funds.
(d) Consultation and agreement with State and local officials.
874. Job search and relocation assistance.
(a) Agreements with States, State agencies or prime sponsors.
(b) Persons entitled to job search assistance.
(c) Form of relocation assistance; persons entitled to relocation assistance.
875. Veterans information and outreach.
876. Programs for the handicapped.
(a) Congressional findings and declarations.
(b) Establishment of program to train personnel to work with and assist handicapped individuals.
(c) Establishment of administrative procedures and machinery.
877. Partnership programs.
(a) Development of partnership arrangements between prime sponsors and employment security agencies.
(b) Results of partnerships.
(c) Reimbursement for costs associated with implementation of partnership.
878. Projects for middle-aged and older workers.
(a) Development and establishment of programs; research.
(b) Arrangements with prime sponsors, members of business community, etc.

Sec.
(c) Payment of reasonable training costs of program sponsors.
(d) Part-time or flexible time basis respecting participation in employment and training programs.
(e) Individuals entitled to be program participants.
(f) Reservation of funds.
(g) Affect on other employment and training opportunities.

PART B—RESEARCH, TRAINING, AND EVALUATION

879. Research.
(a) Establishment of comprehensive program of employment and training research.
(b) Establishment of experimental, developmental, demonstration, and pilot projects through grants and contracts.
(c) Supportive employment and training projects of an experimental or demonstration nature.
(d) Programs respecting investigations of work hours arrangements and job and wage classifications systems.
(e) Programs designed to assist persons who might otherwise rely on public assistance.
(f) Demonstration programs providing expanded guidance and counseling services to participants under this chapter.
(g) Educational and assistance programs designed to eliminate artificial barriers to employment.
880. Labor market information and job bank program.
(a) Comprehensive system of labor market information.
(b) Statistically accurate data on unemployment, underemployment, and labor demand.
(c) Annual statistical measure of labor market related economic hardship.
(d) Household budget data.
(e) Sums set aside; notification to Congress.
(f) Job bank.
881. Evaluation.
(a) Effectiveness, impact, etc., of all programs, activities, and research and demonstration projects conducted pursuant to this chapter.
(b) Effectiveness of programs authorized under part C of title IV of the Social Security Act.
(c) Use of statistical sampling techniques to reduce paperwork and costs.
(d) Submission of annual evaluation plan to Congress.
(e) Submission of annual evaluation report to Congress.
(f) Development of program of notification and information dissemination to prime sponsors and Governors respecting program activities in their States.
(g) Development of standard definitions and procedures for uniform reporting by prime sponsors; report to Secretary; "detailed occupational or training code" defined.
882. Training and technical assistance.
883. National Occupational Information Coordinating Committee.
884. Evaluations and incentive grants.

Sec.
885. Voucher demonstration projects.
(a) Establishment of projects by Secretary.
(b) Establishment of regulations respecting criteria, eligibility of participants, etc.
(c) Report to Congress.
886. Employment and training activities to stimulate local private economic development.

SUBCHAPTER IV—YOUTH PROGRAMS

891. Congressional statement of purpose.
892. Definitions.

PART A—YOUTH EMPLOYMENT DEMONSTRATION PROGRAMS

893. Congressional statement of purpose.

SUBPART 1—YOUTH INCENTIVE ENTITLEMENT PILOT PROJECTS

894. Entitlement pilot projects authorized.
(a) Arrangements with selected prime sponsors.
(b) Employment guarantees by prime sponsors.
(c) Costs of employment.
895. Employment guarantees.
896. Selecting prime sponsors.
897. Special provisions for development of participants role as a member of the community and for restrictions on use of funds.
898. Reports.

SUBPART 2—YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS

899. Congressional statement of purpose.
900. Definitions.
901. Allocation of funds.
(a) Amount allocated to States.
(b) Amount allocated for projects of Native American eligible youths and eligible youths in migrant and seasonal farmworker families.
(c) Allocation of remaining funds.
902. Community conservation and improvement youth employment projects.
903. Project applications.
904. Proposed agreements.
(a) Submittal by applicant to Secretary.
(b) Contents.
(c) Conditions for submittal.
905. Approval of agreements.
906. Work limitation.

SUBPART 3—YOUTH EMPLOYMENT AND TRAINING PROGRAMS

907. Congressional statement of purpose.
908. Programs authorized.
909. Allocation of funds.
(a) Amounts allocated to prime sponsors, Governors, programs for Native American eligible youths and eligible youths in migrant and seasonal farmworker families, and discretionary projects of Secretary.
(b) Amounts allocated to States.
(c) Governors' allocation to be used in accordance with special statewide youth services plan.
(d) Restrictions on allocations to prime sponsors.
(e) Special consideration to community based organizations.
910. Eligible applicants.
911. Eligible participants.
912. Conditions for receipt of financial assistance.
(a) Assurances; submission of application.
(b) Recommendations by youth council to planning council.
(c) Agreement between prime sponsor and local educational agency or agencies.
913. Review of plans by Secretary.
914. Secretary's discretionary projects.
915. Youth employment incentive and social bonus program.
(a) Establishment in areas of high youth unemployment.
(b) Requirements respecting social bonus; eligibility.
(c) Selection of employers.
(d) Restrictions on payment of social bonus.
(e) Restriction on other financial advantage from Federal Government.
(f) Coordination with other programs providing incentives or credits for employment of unemployed individuals; report to Congress.

SUBPART 4—GENERAL PROVISIONS

916. Distribution of funds.
917. Rates of pay.
918. Special conditions.
(a) Determination of Secretary as prerequisite to providing financial assistance under this part.
(b) Requirements.
(c) Promotional opportunities.
(d) Notification to labor organizations.
(e) Compliance with other standards.
(f) Restriction on use of funds.
919. Special provisions for youth community conservation and improvement projects and youth employment and training programs.
(a) Requisite conditions of youths participating in programs, projects, and activities.
(b) Reallocation of funds.
(c) Applicability of section 823 of this title.
920. Academic credit and counseling and placement services.
(a) Grant of academic credit to eligible participants in school.
(b) Award of academic credit for competencies derived from work experience obtained through programs under this part.
(c) Counseling and placement services.
921. Disregarded earnings.
922. Applicability of subchapter I of this chapter.

PART B—JOB CORPS

923. Congressional statement of purpose.
924. Establishment of Job Corps.
925. Individuals eligible for enrollment in Job Corps.
926. Screening and selection of applicants.
(a) Prescription of standards and procedures.
(b) Payment for referrals prohibited.
(c) Candidates from rural areas.
927. Special limitations.
928. Enrollment and assignment.
(a) Two year limit on enrollment.
(b) Military service obligation not relieved by Job Corps enrollment.
(c) Assignment to contiguous area.
929. Job Corps centers.
930. Program activities.
(a) Required features of program.
(b) Education and vocational training.
(c) Certificates.
931. Allowances and support.
(a) Limitations; enrollee contributions.
(b) Leave accrual rules.
(c) Readjustment allowance.

Sec.
(d) Payment of readjustment allowance to enrollee's spouse, child, or other relative.
932. Standards of conduct.
933. Community participation; community advisory councils.
934. Counseling and job placement.
(a) Testing and counseling at regular intervals.
(b) Job placement.
(c) Status and progress of enrollees scheduled for termination.
(d) Place of payment of readjustment allowance to former enrollees.
935. Experimental and developmental projects.
936. Advisory boards and committees.
937. Participation of States.
(a) Action by Secretary to facilitate participation.
(b) Agreements with States; payment of costs.
(c) Notice to Governor of proposed establishment of Job Corps facility.
(d) Concurrent jurisdiction.
938. Application of provisions of Federal law.
(a) Federal employee status.
(b) Claims against United States.
(c) Uniformed services personnel strength computations.
939. Special provisions.
(a) Ratio of women enrollees.
(b) Studies, evaluations, proposals, etc., produced or developed with Federal funds to become property of United States.
(c) Transactions conducted by private for-profit contractors.
940. Administrative provisions.
941. Utilization of funds.

PART C—SUMMER YOUTH PROGRAM

942. Establishment of program.
943. Prime sponsors.
944. Financial assistance.
(a) Submission of annual plan as prerequisite to providing financial assistance to prime sponsors.
(b) Reservation of funds by Secretary.
(c) Allocation of funds.
945. Secretarial authority.

SUBCHAPTER V—NATIONAL COMMISSION FOR EMPLOYMENT POLICY

951. Congressional statement of purpose.
952. Commission established.
(a) Membership.
(b) Restriction on appointment of individuals serving as members of National Commission for Manpower Policy.
(c) Term of office.
(d) Chairman; meetings; quorum.
(e) Appointment of Director.
953. Functions of Commission.
954. Administrative provisions.
955. Reports.

SUBCHAPTER VI—COUNTERCYCLICAL PUBLIC SERVICE EMPLOYMENT PROGRAM

961. Congressional statement of purpose.
962. Reports.
(a) Report on appropriations.
(b) Supplementary reports.
(c) Duty of Secretary to inform prime sponsors of estimated allocation.
963. Financial assistance.
964. Allocation of funds.

Sec.
965. Expenditure of funds.
(a) Restriction; extension of project.
(b) Submission of project application.
(c) Funds for training and employability counseling and services to be used for residents of area employed under this subchapter.
966. Prime sponsors and Native American entities qualified to receive financial assistance; program agents.
967. Eligibility.
968. Payment of wages.
969. Wage supplementation.
970. Utilization of funds.

SUBCHAPTER VII—PRIVATE SECTOR OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED

981. Congressional statement of purpose.
982. Financial assistance.
983. Conditions for receipt of financial assistance.
984. Private industry councils.
(a) Establishment by prime sponsor; appointment of members; coverage; "small business" defined.
(b) Chairman.
(c) Function of councils.
(d) Presumptive role of particular organizations
985. Program activities.
986. Report to Congress; dissemination of information to prime sponsors.

SUBCHAPTER VIII—YOUNG ADULT CONSERVATION CORPS

991. Congressional statement of purpose.
992. Establishment.
993. Enrollees.
(a) Selection by Secretaries of Interior and Agriculture.
(b) Membership in Corps.
(c) Referral of candidates.
(d) Preferences to youths residing in rural and urban areas of substantial unemployment.
(e) Maximum period of enrollment.
994. Activities of Corps.
(a) Determination of location of Corps centers; work project fields.
(b) Standards for work projects.
(c) Project requirements.
(d) Agreements providing for transportation, lodging, medical treatment, facilities, etc.; use of Federal, State, and local government facilities and equipment.
(e) Arrangements providing for academic credit for competencies derived from work experiences obtained through programs under this subchapter.
995. Conditions applicable to Corps enrollees.
996. State and local programs.
(a) Grants or agreements for conduct of components of Corps or Corps projects.
(b) Submission of application as prerequisite to making grants or entering into agreements; contents.
(c) Funds available for grants.
997. Report to President and Congress.
998. Antidiscrimination.
999. Transfer of funds.

CODIFICATION

The Comprehensive Employment and Training Act of 1973, Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839 as amended by Pub. L. 93-567, Dec. 31, 1974, 88 Stat.

1845; Pub. L. 94-444, Oct. 1, 1976, 90 Stat. 1476; Pub. L. 94-482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95-40, June 3, 1977, 91 Stat. 203; Pub. L. 95-44, June 15, 1977, 91 Stat. 220; Pub. L. 95-93, Aug. 5, 1977, 91 Stat. 627, comprised this chapter prior to its complete revision by Pub. L. 95-524, Oct. 27, 1978, 92 Stat. 1909. The Act, now known as the Comprehensive Employment and Training Act, Pub. L. 93-203, as amended generally by Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1909, is set out as having been added by Pub. L. 95-524 without reference to the intervening amendments in view of the extensive revision of the Act's provisions by Pub. L. 95-524.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 795a of this title; title 7 section 2026; title 15 sections 1022a, 3116; title 18 section 665; title 20 sections 1211b, 1211c, 2306, 2307, 2391, 2563, 2991, 3286; title 38 section 2003; title 42 sections 1474, 2809, 2982a, 3013, 3056a, 6103, 6864, 6873.

§ 801. Congressional statement of purpose

It is the purpose of this chapter to provide job training and employment opportunities for economically disadvantaged, unemployed, or underemployed persons which will result in an increase in their earned income, and to assure that training and other services lead to maximum employment opportunities and enhance self-sufficiency by establishing a flexible, coordinated, and decentralized system of Federal, State, and local programs. It is further the purpose of this chapter to provide for the maximum feasible coordination of plans, programs, and activities under this chapter with economic development, community development, and related activities, such as vocational education, vocational rehabilitation, public assistance, self-employment training, and social service programs.

(Pub. L. 93-203, § 2, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1912.)

PRIOR PROVISIONS

A prior section 801, Pub. L. 93-203, § 2, Dec. 28, 1973, 87 Stat. 839, which provided for a congressional statement of purpose for this chapter, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

EFFECTIVE DATE

Section 715, formerly § 615, of Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845, which provided that Pub. L. 93-203 take effect on Dec. 28, 1973, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1909.

SHORT TITLE OF 1978 AMENDMENT

Section 1 of Pub. L. 95-524 provided: "That this Act [which enacted this chapter and sections 175a and 829a of this title, amended sections 173 and 186 of this title and section 665 of Title 18, Crimes and Criminal Procedure, enacted provisions set out as notes under sections 175a, 801, and 829 of this title, and repealed provisions set out as a note under section 2002 of Title 38, Veterans' Benefits] may be cited as the 'Comprehensive Employment and Training Act Amendments of 1978'."

SHORT TITLE

Section 1 of Pub. L. 93-203, as amended by Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1909, provided in part that this Act [this chapter] may be cited as the "Comprehensive Employment and Training Act". Prior to amendment by Pub. L. 95-524, section 1 of Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, provided: "That this Act [which enacted this chapter and section 665 of Title 18, Crimes and Criminal Procedure, and repealed sections 2571 to 2628, 2716 to 2729, 2737 to 2749, and 2769 to 2769f of Title 42, The Public Health and Welfare] may be cited as the 'Comprehensive Employment and Training Act of 1973'."

TRANSITIONAL PROVISIONS

Section 4 of Pub. L. 95-524 provided that:

"(a)(1) The Secretary of Labor (hereinafter in this section referred to as the 'Secretary') may provide financial assistance, in accordance with the provisions of this section, in the same manner that such assistance was provided under the Comprehensive Employment and Training Act of 1973 [Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839] (as in effect on the day before the date of the enactment of this Act [Oct. 27, 1978]), to the extent the Secretary considers necessary to provide for the orderly transition of employment and training programs carried out under such Act and to provide continued financial assistance for such programs.

"(2) The authority of the Secretary established in paragraph (1) shall expire at the end of March 31, 1979.

"(b) The Secretary shall take such action as may be necessary to provide, as soon as possible after the date of the enactment of this Act [Oct. 27, 1978], for the implementation of provisions of the Comprehensive Employment and Training Act [this chapter] relating to the prohibition of fraud and other abuses in connection with the administration of programs under such Act.

"(c)(1) The provisions of the Comprehensive Employment and Training Act [this chapter] relating to supplementation, maximum Federal wage rates, and eligibility shall apply to the provision of financial assistance by the Secretary after the end of the 90-day period beginning on the date of the enactment of this Act [Oct. 27, 1978].

"(2) The eligibility conditions established in section 608 of the Comprehensive Employment and Training Act of 1973 [former section 968 of this title] (as in effect on the day before the date of the enactment of this Act [Oct. 27, 1978]) shall apply, during the period specified in paragraph (1), with respect to any individual hired for public service employment on or after such date of enactment.

"(d) The Secretary shall have authority to waive the application of any Federal law, or any regulation or other requirement prescribed or established under any Federal law, which establishes time period limitations or other requirements which relate to notice, hearings, or similar matters which otherwise would be applicable to the manner in which regulations prescribed by the Secretary may take effect, to the extent the Secretary deems such waiver necessary to carry out the provisions of subsection (b) and subsection (c).

"(e) If the Secretary determines that he cannot carry out the provisions of subsection (b) and subsection (c), other than those provisions which require any amendment to comprehensive employment and training plans, at the end of the 90-day period specified in subsection (c)(1), the Secretary shall furnish notice of such determination to the Committee on Human Resources [now Labor and Human Resources] of the Senate and the Committee on Education and Labor of the House of Representatives. Such notice shall include the reasons for such determination.

"(f) The National Commission for Manpower Policy, as in existence on the day before the date of the enactment of this Act [Oct. 27, 1978], shall continue in existence until the members of the National Commission for Employment Policy are appointed in accordance with the provisions of title V of the Comprehensive Employment and Training Act [subchapter V of this chapter]."

The name of the Committee on Human Resources of the Senate, referred to in subsec. (e), was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See, also, Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.

Section 3 of Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, which authorized the Secretary to provide financial assistance to job training programs from funds appropriated pursuant to this chapter, in the same manner and on the same conditions as provided in certain predecessor programs, in order to assure the orderly transition of supporting job training programs, and authorized the Secretary, in addition, to provide financial assistance under former section 874(a)(3) of this title for jobs for disadvantaged youths during the summer months from appropriations available under this chapter during the period June 1, 1974, through Oct. 1, 1974, in the same manner and on the same conditions, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524, Oct. 27, 1978, 92 Stat. 1909.

REPEAL OF PREDECESSOR PROGRAMS; AVAILABILITY OF UNEXPENDED APPROPRIATIONS

Section 714, formerly § 614, of Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845, which provided that effective with respect to fiscal years after June 30, 1974, the Manpower Development and Training Act of 1962 [section 2571 et seq. of Title 42, The Public Health and Welfare] and parts A, B, and E of title I of the Economic Opportunity Act of 1964 [sections 2711 to 2729, 2731 to 2749, and 2769 to 2769f of Title 42, respectively] were repealed and which provided that the unexpended appropriations for carrying out such Acts were available to carry out Pub. L. 93-203, as directed by the President, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1909.

§ 802. Definitions

As used in this chapter—

(1) The term "academic credit" means credit for education, training, or work experience applicable toward a secondary school diploma, a postsecondary degree, or an accredited certificate of completion, consistent with applicable State law, regulation, and policy and the requirements of an accredited educational agency or institution in a State.

(2)(A) Except as provided in subparagraph (B), the term "area of substantial unemployment" means any area of sufficient size and scope to sustain a public service employment program and which has an average rate of unemployment of at least 6.5 percent for the most recent 12 months as determined by the Secretary.

(B) With respect to determinations made for fiscal year 1979, and for parts A, B, and C of subchapter II of this chapter for any fiscal year, such term means any area of sufficient size and scope to sustain such a program and which has an average rate of unemployment of at least 6.5 percent for any 3 consecutive months within the most recent 12-month period as determined by the Secretary.

(C) Determinations of areas of substantial unemployment shall be made once each fiscal year.

(3) The term "artificial barriers to employment" means limitations in the hiring, firing, promotion, licensing, and other terms and conditions of employment which are not directly related to an individual's fitness or ability to perform the duties required by the employment position.

(4) The term "community-based organizations" means private nonprofit organizations which are representative of communities or significant segments of communities and which provide employment and training services (for example, Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, neighborhood groups and organizations, community action agencies, community development corporations, vocational rehabilitation organizations, rehabilitation facilities (as defined in section 706(10) of this title), agencies serving youth, union-related organizations, and employer-related nonprofit organizations).

(5) The term "Consumer Price Index" means the "All Urban Consumer Index" as determined by the Secretary of Labor.

(6) The term "disabled veteran" means those veterans described in section 2011(1) of title 38.

(7) The term "displaced homemaker" means an individual who—

(A) has not worked in the labor force for a substantial number of years but has, during those years, worked in the home providing unpaid services for family members;

(B)(i) has been dependent on public assistance or on the income of another family member but is no longer supported by that income, or (ii) is receiving public assistance on account of dependent children in the home; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(8) The term "economically disadvantaged" means a person who (A) receives, or is a member of a family which (i) receives cash welfare payments under a Federal, State, or local welfare program, or (ii) had a family income during the 6-month period prior to application for the program involved which would have qualified such family for such cash welfare payments, subject to regulations of the Secretary; (B) has, or is a member of a family which has, received a total family income for the 6-month period prior to application for the program involved (exclusive of unemployment compensation and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (ii) 70 percent of the lower living standard income level; (C) is a foster child on behalf of whom State or local government payments are made; or (D) in cases permitted by regulations of the Secretary, is a handicapped individual living at home or is an individual who is institutionalized or receiving services in, or is a client of, a sheltered workshop, prison, hospital, or similar institution or in community care. Except for any person who would be eligible for as-

sistance under title V of the Older Americans Act of 1965 [42 U.S.C. 3041 et seq.] or a handicapped individual who is sixteen years of age or older, any person claimed as a dependent on another person's Federal income tax return under section 151(e) of title 26 for the previous year shall be presumed, unless otherwise demonstrated, to be part of the person's family for the current year.

(9) The term "entry level" means the lowest position in any promotional line, as defined locally by collective-bargaining agreements, past practice, or applicable personnel rules.

(10) The term "Governor" means the chief executive of any State.

(11) The term "handicapped individual" means any individual who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment.

(12) The term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now consists of the Hawaiian Islands.

(13) The term "health care" includes preventive and clinical medical treatment, family planning services, nutrition services, and appropriate psychiatric, psychological, and prosthetic services, to the extent any such treatment or services are necessary to enable the recipient of employment and training services to obtain or retain employment.

(14) The terms "institutions of higher education" and "post-secondary institutions" mean those institutions defined as institutions of higher education in section 1141(a) of title 20.

(15)(A) Except as provided in subparagraph (B), the term "local educational agencies" means agencies as defined in section 2461(10) of title 20.

(B) For purposes of subpart 3 of part A of subchapter IV of this chapter, such term means agencies as defined in section 3381(f) of title 20.

(16) The term "low-income level" means $7,000 with respect to income in 1969, and for any later year means that amount which bears the same relationship to $7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

(17) The term "lower living standard income level" means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary based upon the most recent "lower living family budget" issued by the Secretary.

(18) The term "offender" means any adult or juvenile who is or has been subject to any stage of the criminal justice process for whom employment and training services may be beneficial or who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

(19) The term "project" means, for the purpose of subchapters II and VI of this chapter, a definable task or group of related tasks which will be completed within a definable period of time, has a public service objective, will result in a specific product or accomplishment, and would otherwise not be done with existing funds.

(20) The term "project applicants" includes States and agencies thereof, units of general local government and agencies thereof or combinations or associations of such governmental units when the primary purpose of such combinations or associations is to assist such governmental units to provide public services, special purpose political subdivisions having the power to levy taxes and spend funds or serving such special purpose within an area served by one or more units of general local government, local educational agencies, institutions of higher education, community-based organizations, community development corporations, nonprofit groups and organizations serving Native Americans, and other private nonprofit organizations or institutions engaged in public service.

(21) The term "public assistance" means Federal, State, or local government cash payments for which eligibility is determined by a need or income test.

(22) The term "public service" includes work, including part-time work, in such fields as environmental quality, health care, education, child care, public safety, crime prevention and control, prisoner rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, veterans outreach, and other fields of human betterment and community improvement.

(23) The term "recipient" means any person, organization, unit of government, corporation, or other entity receiving financial assistance under this chapter whether directly from the Secretary, or through another recipient by subgrant, contract, subcontract, agreement, or otherwise.

(24) The term "Secretary" means the Secretary of Labor.

(25) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(26) The term "supportive services" means services which are designed to contribute to the employability of participants, enhance their employment opportunities, assist them in retaining employment, and facilitate their movement into permanent employment not subsidized under the chapter. Supportive services may include health care, transportation, temporary shelter, child care, and financial counseling and assistance.

(27) The term "underemployed persons" means—

(A) persons who are working part time but seeking full-time work; or

(B) persons who are working full time but receiving wages not in excess of the higher of either (i) the poverty level determined in accordance with criteria as established by the Director of the Office of Management

and Budget; or (ii) 70 percent of the lower living standard income level.

(28) The term "unemployed persons" means—

(A) persons who are without jobs and who want and are available for work; or

(B) except for purposes of allocation formulas—

(i) in cases permitted by regulations of the Secretary, persons who are institutionalized in, or who have been released from a prison, hospital, or similar institution, or are clients of a sheltered workshop; or

(ii) adults who receive, or whose families receive, supplemental security income or money payments pursuant to a State plan approved under title I, IV, X, or XVI of the Social Security Act [42 U.S.C. 301 et seq., 601 et seq., 1201 et seq., 1381 et seq.] or would, as defined in regulations to be issued by the Secretary, be eligible for such payments but for the fact that both parents are present in the home (I) who are determined by the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to be available for work and (II) who are either persons without jobs, or persons working in jobs providing insufficient income to support their families without welfare assistance.

The determination of whether persons are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed, but such criteria shall not be applied differently on account of a person's previous employment.

(29) The term "unit of general local government" means any city, municipality, county, town, township, parish, village, or other general purpose political subdivision which has the power to levy taxes and spend funds, as well as general corporate and police powers.

(30) The term "veterans outreach" means the veterans outreach services program carried out under subchapter IV of chapter 3 of title 38, with full utilization of veterans receiving educational assistance or vocational rehabilitation under chapter 31 or 34 of such title 38, and the services described in section 875 of this title.

(31) The term "Vietnam-era veterans" means those veterans defined in section 2011(2)(A) of title 38, who are under 35 years of age.

(Pub. L. 93-203, § 3, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1912.)

REFERENCES IN TEXT

The Older Americans Act of 1965, referred to in par. (8), is Pub. L. 89-73, July 14, 1965, 79 Stat. 218, as amended. Title V of the Older Americans Act of 1965 was classified generally to subchapter V (§ 3041 et seq.) of chapter 35 of Title 42, The Public Health and Welfare, and was repealed by Pub. L. 95-478, title V, § 501(a), Oct. 18, 1978, 92 Stat. 1558. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

The Social Security Act, referred to in par. (28)(B)(ii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles I, IV, X, and XVI of the Social Security Act are classified generally to subchapters I (§ 301 et seq.), IV (§ 601 et seq.), X (§ 1201 et seq.), and XVI (§ 1381 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 802, Pub. L. 93-203, § 4, Dec. 28, 1973, 87 Stat. 839; Pub. L. 95-44, § 2(a), June 15, 1977, 91 Stat. 220; Pub. L. 95-93, title III, § 302, Aug. 5, 1977, 91 Stat. 650, which authorized appropriations for this chapter, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 822 of this title.

A prior section 3 of Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, which provided for transitional provisions and which was set out as a note under section 801 of this title, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

Provisions similar to those comprising this section were contained in former section 981 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

A prior section 803, Pub. L. 95-93, title III, § 305, Aug. 5, 1977, 91 Stat. 651, providing for increased participation of veterans in public service employment programs and job training opportunities, was omitted because it was limited to fiscal years 1977 and 1978. See section 875 of this title.

CHANGE OF NAME

The Secretary of Health, Education, and Welfare was redesignated the Secretary of Health and Human Services by section 3508 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 824, 825, 856, 878, 900, 908, 909, 914, 993 of this title.

SUBCHAPTER I—ADMINISTRATIVE PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 822, 922 of this title.

PART A—ORGANIZATIONAL PROVISIONS

§ 811. Prime sponsors

(a) Qualifications of sponsorship

A prime sponsor under this chapter shall be—

(1) a State;

(2) a unit of general local government which has a population of 100,000 or more persons on the basis of the most satisfactory current data available to the Secretary;

(3) any consortium of units of general local government which includes any unit of general local government qualifying under paragraph (2);

(4) any unit of general local government or any consortium of such units, without regard to population, which, in exceptional circumstances, and after consultation with appropriate State and local officials, is determined by the Secretary—

(A)(i) to serve a substantial portion of a functioning labor market area, or (ii) to be a rural area having a high level of unemployment; and

(B) to have demonstrated (i) that it has the capability for adequately carrying out programs under this chapter, (ii) that there

is a special need for services within the area to be served, and (iii) that it will carry out such programs and services in such area as effectively as any larger unit of general local government in the jurisdiction of which it is located or as the State;

(5) a limited number of existing concentrated employment program grantees serving rural areas having a high level of unemployment which the Secretary determines have special capabilities for carrying out programs in such areas and are designated by the Secretary for that purpose; and

(6) any unit of general local government previously designated as a prime sponsor under the provisions of this chapter (as in effect prior to October 27, 1978), regardless of a population decline below 100,000 persons, which the Secretary certifies has demonstrated its effectiveness in, and continues to have the capability for, adequately carrying out programs under this chapter.

(b) Restrictions on States or units of local governments

(1) A State shall not qualify as a prime sponsor for any geographical area within the jurisdiction of any prime sponsor described in paragraph (2), (3), (4), (5), or (6) of subsection (a) of this section unless such prime sponsor has not submitted an approvable comprehensive employment and training plan for such area.

(2) A larger unit of general local government shall not qualify as a prime sponsor with respect to the jurisdiction within its area of any smaller eligible unit of general local government unless such smaller unit has not submitted an approvable comprehensive employment and training plan for such area.

(c) Notice of intent; designation by Secretary

An applicant shall submit to the Secretary a notice of intent to be a prime sponsor for a fiscal year by such date as the Secretary shall prescribe. The Secretary shall designate as a prime sponsor any applicant submitting such a notice unless the Secretary determines that such applicant does not qualify under this section.

(d) Assistance by area planning bodies

State prime sponsors shall, in coordination with units of general local government, make appropriate arrangements for appropriate area planning bodies to serve subareas within the State prime sponsor's area for the purpose of assisting in the effective planning and delivery of comprehensive employment and training programs in such subareas, in accordance with such regulations as the Secretary may prescribe.

(Pub. L. 93-203, title I, § 101, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1917.)

PRIOR PROVISIONS

A prior section 811, Pub. L. 93-203, title I, § 101, Dec. 28, 1973, 87 Stat. 840, which related to the description of a program to provide comprehensive manpower services, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See sections 841 and 846 of this title.

Provisions similar to those comprising this section were contained in former section 812 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 813, 818, 819, 842, 900, 910, 943, 944, 966, 982 of this title.

§ 812. Authority of Secretary to provide services

In any area for which no prime sponsor has been designated or where the Secretary has taken an action under section 814 or section 816 of this title which results in employment and training services not being provided in such area, the Secretary shall use funds allocated to such prime sponsor to make payments directly to public agencies or private nonprofit organizations as if the Secretary were the prime sponsor for that area.

(Pub. L. 93-203, title I, § 102, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1918.)

PRIOR PROVISIONS

A prior section 812, Pub. L. 93-203, title I, § 102, Dec. 28, 1973, 87 Stat. 841, which related to prime sponsors, was omitted from the Code in the general revision of Pub. L. 93-203, by Pub. L. 95-524. See section 811 of this title.

Provisions similar to those comprising this section were contained in former section 820 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 842, 913 of this title; title 15 section 3116.

§ 813. Comprehensive employment and training plan

(a) Submission to Secretary; contents

In order to receive financial assistance under this chapter, a prime sponsor designated under section 811(c) of this title shall submit to the Secretary a comprehensive employment and training plan. Such plan shall consist of a master plan and an annual plan. The master plan shall serve as the long-term charter under which the programs of such prime sponsor shall be operated. Such plan shall be sufficiently detailed to provide the Secretary and the prime sponsor with a thorough understanding of the economic conditions of the area and of the prime sponsor's long-term programmatic and administrative arrangements to ensure that each annual program is designed and implemented in a manner best suited to such conditions and in a manner consistent with the requirements of this chapter. The formulation of such plan by the prime sponsor shall involve the active participation of the prime sponsor planning council, and such plan shall—

(1) include (A) a detailed analysis of the area to be served, including geographic and demographic characteristics of significant segments of the population to be served (with data indicating the number of potential eligible participants and their income and employment status), and (B) a comprehensive labor market analysis and assessment of the economic conditions in the area, identifying the availability of employment and training in various public and private labor market sectors in such area and the potential for job growth in such sectors;

(2) include a statement of the long-term goals of the prime sponsor for the improvement of such labor market and economic conditions;

(3) include a detailed description of—

(A) the methods and institutional arrangements which will be used to involve community based organizations, educational agencies, and other deliverers of services in the development and implementation of the programs assisted under this chapter; and

(B) the methods and criteria which will be used to select such deliverers of services from an inventory of potentially available deliverers of services (which have expressed an interest in writing) maintained by the prime sponsor as records accessible to the public;

(4) include a detailed description of—

(A) the prime sponsor's administrative arrangements, including the procedures to be used to supervise deliverers of service (including criteria for determining that a program has demonstrated effectiveness), to select and to place individuals on the administrative staff, to evaluate and audit the operation of such programs, and to process complaints and grievances;

(B) the methods to be used to identify and place participants in such programs, the arrangements made with respect to providing such participants with job search assistance, counseling, and other services; and

(C) the procedures for the selection of and the arrangements made with respect to consultation with the prime sponsor planning council, the youth council, and the private industry council;

(5) include a description of arrangements to ensure that—

(A) employment and training services, including the development of job opportunities, will be provided to those most in need of them, including low-income persons, handicapped individuals, persons facing barriers to employment commonly experienced by older workers, and persons of limited English-speaking ability, and that the need for continued funding of programs of demonstrated effectiveness is taken into account in serving such groups and persons;

(B) nondiscrimination and equal employment opportunities are provided; and

(C) procedures are developed which will lead to skill development and job opportunities for participants in occupations traditionally limited to individuals of the opposite sex;

(6) provide a description of appropriate arrangements with educational agencies serving youth, community-based organizations serving the poverty community which are not represented on the prime sponsor planning council, and other special target groups, for their participation in the planning of programs included in the plan;

(7) provide for utilizing those services and facilities which are available, with or without reimbursement, from Federal, State, and local agencies to the extent deemed appropriate by the prime sponsor after giving due consideration to the effectiveness of such existing services and facilities, including the State employment service, State vocational education and vocational rehabilitation agencies, State public assistance agencies, area skills centers, local educational agencies, postsecondary training and education institutions, community action agencies, other public agencies and community-based organizations, but nothing contained herein shall be construed to limit the utilization of services and facilities of private agencies, institutions, and organizations (such as private businesses, labor organizations, and private educational and vocational institutions) which can, at comparable cost, provide substantially equivalent training or services;

(8) provide (A) a description of arrangements for (i) the use of skills centers established under section 2601 of title 42, and (ii) the use of other public vocational education facilities in such area; (B) a description of arrangements to coordinate services for which financial assistance is provided under programs administered by the Secretary relating to employment and training and related services; and (C) a description of arrangements to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under section 1787 of title 38;

(9) provide for and include a description of arrangements made to ensure the participation of and consultation with local educational agencies, vocational education agencies, community-based organizations, Federal and State agencies, organized labor, business, and other institutions and organizations in the conduct of programs under this chapter;

(10) include a description of procedures for the consideration of any changes in the agreement required by this subsection or in the annual plan required under subsection (b) of this section, including review of such changes by the prime sponsor planning council;

(11) include a detailed description of recordkeeping procedures (including books of account) for the expenditure of funds received under this chapter which will allow the Secretary to audit and monitor the prime sponsor's programs, and will assure adequate supervision and monitoring of such programs by the prime sponsor, particularly with respect to the eligibility of participants and the propriety of participant selection procedures and practices;

(12) include a detailed description of procedures for the monitoring and auditing of any subgrantees or subcontractors;

(13) include a description of the methods and arrangements which will be used to ensure the fullest possible utilization, consistent with the education and training needs identified in the plan, of public vocational education facilities and programs, and of other facilities of local education agencies in the provision of instruction in basic cognitive skills and in the development and implementation of programs assisted under this chapter;

(14) provide evidence that in the development of such plan there has been a continuing process of consultation with interested groups in the area not directly represented on the prime sponsor's planning council, including local advisory councils established under section 2305(a) of title 20 and the private industry council established under section 984 of this title, representatives of local education agencies, and representatives of postsecondary educational agencies;

(15) include a description of the methods for coordination between the prime sponsor and the local State employment security agencies and delineate the specific responsibilities of each in the delivery of employment and training services for participants funded under this chapter and under the Wagner-Peyser Act [29 U.S.C. 49 et seq.], with the goal of maximizing the level of coordination between the prime sponsor and the local employment security agency and minimizing duplication;

(16) include a description of the procedures concerning academic credit developed in conjunction with the appropriate local educational agency or institution of higher education and approved by the appropriate State educational agency (including State agencies responsible for postsecondary education), or, where a prime sponsor's area includes more than one local educational agency, developed in conjunction with, and approved by, the appropriate State educational agency;

(17) include a description of recommendations of members of the prime sponsor's planning council which were not included in the plan, together with the reasons for rejecting them;

(18) include a description of actions to ensure compliance with personnel procedures and collective bargaining agreements;

(19) include a description of efforts to remove artificial barriers to employment;

(20) include a description of plans and activities to coordinate, strengthen, and expand employment and training activities under this chapter with economic development activities in the private sector; and

(21) include adequate assurances of compliance with all provisions of this chapter and regulations promulgated pursuant thereto.

(b) Annual plan; contents

To receive funds for any fiscal year, a prime sponsor shall submit an annual plan, which shall include—

(1) a description of any significant changes from the information provided in the master plan;

(2) a description of the eligible population identified by race, sex, national origin, and age, and the proposed activities and services for participants from these significant segments of the eligible population;

(3) a description of specific services for individuals who are experiencing severe handicaps in obtaining employment, including individuals who lack credentials, require basic and remedial skill development, have limited English-speaking ability, are handicapped, are disabled or Vietnam-era veterans, are offenders, are displaced homemakers, are public assistance recipients, are 55 years of age or older, are youth, are single parents, are women, or are other individuals who the Secretary determines have particular disadvantages in the labor market;

(4) a description of the services to be provided, the prime sponsor's performance and placement goals (including such goals as may be established with respect to the groups identified in paragraphs (2) and (3)), and the relationship of such goals to the Secretary's performance standards;

(5) the proposed budget for the program year, including a detailed summary of the expenditures made during the preceding year, results achieved, and changes made in the annual plan for the program year;

(6) a description of the relationship between job development and placement under this chapter and other employment and training programs in the area served, and efforts made or which will be made to coordinate programs under this chapter with such other programs;

(7) a description of programs to orient and prepare the participants for their job responsibilities;

(8) a description of efforts to be undertaken to involve the private sector;

(9) a statement of any intention by the prime sponsor to apply for and utilize funds provided under this chapter which are not allocated by formula;

(10) a description of wage rates or salaries and fringe benefits to be paid to persons employed in public service employment and a comparison with the wages or salaries and fringe benefits paid for similar public occupations by the same employer; levels of employment not supported under this chapter; layoffs, and hiring and promotional freezes in each employing agency;

(11) a description of the procedures which will be used to promote the objectives of section 823(a)(4) of this title, including the hiring, licensing, and contracting activities of the political units, subgrantees, and contractors of such prime sponsor;

(12) the method for determining priorities for service under subchapter II of this chapter which shall be based on objective locally established criteria to assist the prime sponsor in assuring service to those most in need, such priorities shall be based on locally determined factors such as employment status, household status, level of employability development, handicap, veteran status, age, race, sex, or other criteria deemed viable by the prime sponsor;

(13) a list of the specific contracts from the previous year with those institutions providing training programs, including information on the rate of positive placement for individuals who have completed such programs;

(14) a summary of any evaluation conducted of the prime sponsor's programs during preceding program years and a description of any use made of such evaluation in the modification or alteration of the prime sponsor's program;

(15) a description of an affirmative action program for outreach to and training, placement, and advancement of handicapped individuals in employment and training programs under this chapter, including—

(A) a description of the extent to which and the methods whereby the special needs of the handicapped are to be met; and

(B) a description of the number of handicapped individuals who were served in the preceding year the types of training or employment in which they were placed, and the number of such individuals who were moved into unsubsidized employment; and

(16) a copy of all agreements made pursuant to section 843(c) of this title.

(c) Establishment of procedures

The Secretary shall establish procedures for submittal, approval, and implementation of changes in the comprehensive employment and training plan, together with any reports required under this chapter, not more than once each fiscal quarter.

(Pub. L. 93-203, title I, § 103, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1918.)

REFERENCES IN TEXT

Section 2601 of title 42, referred to in subsec. (a)(8), was repealed by Pub. L. 93-203, title VII, § 714, formerly title VI, § 614, Dec. 28, 1973, 87 Stat. 883, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845.

The Wagner-Peyser Act, referred to in subsec. (a)(15), is act June 6, 1933, ch. 49, 48 Stat. 113, as amended, which is classified principally to chapter 4B (§ 49 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 49 of this title and Tables.

PRIOR PROVISIONS

A prior section 813, Pub. L. 93-203, title I, § 103, Dec. 28, 1973, 87 Stat. 842, which provided for the allocation of funds with respect to the comprehensive manpower services program was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See sections 818, 825, 842 of this title.

Provisions similar to those comprising this section were contained in former section 815 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 834, 842, 843, 944 of this title.

§ 814. Review of comprehensive employment and training plans

(a) Transmission and availability of plan for review and comment

Each prime sponsor shall, at least 45 days before submitting its master or annual plan to the Secretary—

(1) transmit such plan, in order to allow at least 30 days of review and comment, to—

(A) the Governor;

(B) the State employment and training council;

(C) the prime sponsor planning council and the private industry council;

(D) appropriate units of general local government in its area; and

(E) labor organizations in the area which represent employees engaged in work similar to that proposed to be funded;

(2) make such plan available, in order to allow for at least thirty days of review and comment, to—

(A) each House of the State legislature for appropriate referral;

(B) appropriate community based organizations of demonstrated effectiveness in serving significant segments of the eligible population; and

(C) appropriate educational agencies and institutions,

and give written notification of its availability; and

(3) make such plan available to the general public through such means as public hearings, newspapers, bulletins, and other media, including publications that primarily serve significant segments of the eligible population.

(b) Consideration of recommendations and comments

The prime sponsor shall consider any comments or recommendations received and shall transmit to the Secretary copies of the comments and recommendations of the Governor, the State employment and training council, and the prime sponsor planning council.

(c) Compliance review by Secretary; requirements for approval

(1) The Secretary shall review each comprehensive employment and training plan to determine whether it is complete, whether it meets the requirements of this chapter and the regulations promulgated under this chapter and other applicable law, and whether, taking into account such factors as past performance and the recommendations made by the Governor, the State employment and training council, and the prime sponsor planning council, it is adequately designed to carry out an effective and well-administered program. The Secretary shall require the prime sponsor to take such action as the Secretary deems necessary to bring its plan and programs into conformance with the chapter and the regulations promulgated under this chapter or to improve the administration and effectiveness of its programs. If it is determined that such action is made necessary as a result of the Secretary's review of recommendations submitted by the Governor, the State employment and training council, or the prime sponsor planning council, the Secretary shall request an explanation of why the prime sponsor rejected such recommendations.

(2) The Secretary shall, prior to approval of any plan, require the inclusion in such plan of specific management and accounting procedures to assure adequate supervision and monitoring of the programs to be conducted pursuant to such plan, and shall require the adoption of specific procedures (such as accrual accounting procedures) where necessary for such purpose.

(3) The Secretary shall, prior to approval of any plan, ensure that the prime sponsor has demonstrated a recognizable and proven method of verifying eligibility of all partici-

pants. The Secretary may require modification or the adoption of specific procedures where necessary for such purposes. The Secretary shall also develop recognizable penalties and inform the prime sponsor of such penalties to be applied upon a finding of the ineligibility of any participant. In reviewing such plans, the Secretary shall ensure that the plans adequately describe, and the prime sponsor demonstrates a thorough understanding of, labor market and economic conditions in the area served, that the plan is reasonably designed to respond to such conditions, that the administrative arrangements and procedures are adequate for the performance of the program and will ensure that professional standards of management will be attained, and that the plans provide for adequate relationships with existing community efforts and maximize the use of existing resources.

(4) The Secretary may disapprove all or any portion of a plan if he finds that the use of funds for a particular subcontract or subgrant provided within that portion of the plan would be grossly inefficient or fail to carry out the purposes of this chapter.

(d) Disapproval of plan; notice and hearing

(1) The Secretary shall disapprove any plan that does not fully satisfy the review under subsection (c) of this section, after a reasonable opportunity, but not less than 30 days, has been given to the prime sponsor to remedy any defect found in the plan and the prime sponsor has failed to do so.

(2) Whenever the Secretary disapproves a plan he shall transmit a notice of disapproval to the prime sponsor and the Governor, accompanied by a statement of reason for the disapproval. The Secretary shall not disapprove a plan without first affording an opportunity for a hearing to the prime sponsor.

(e) Date for submission of annual plan; regulations requiring change in plan prohibited

(1) The Secretary shall, not later than March 31 of the fiscal year preceding the fiscal year for which an annual plan is to take effect, establish a date for the submission of such annual plan. The Secretary shall make available to each prime sponsor a complete and final set of all applicable regulations and necessary application materials no later than May 15 of the fiscal year preceding the fiscal year for which such plan is to take effect. With respect to funds allocated under this chapter on the basis of a formula, the Secretary shall also provide prime sponsors with a preliminary planning estimate based on the amounts available in the budget of the President or in the most recent concurrent budget resolution under the Congressional Budget Act applicable to such year. If for any reason the Secretary cannot provide a complete and final set of all applicable regulations and necessary application materials by such May 15 prior to the date established under the first sentence of this subsection, the Secretary shall extend the date for submittal of such plan to allow the prime sponsor to review such regulations and to complete such materials prior to submittal.

(2) During the period of time between May 15 and the date for submittal of the plan, the Secretary shall not issue any regulations or guidelines or interpretations thereof that require any change in the prime sponsor's plan, which is a condition for the Secretary's approval or disapproval of the plan. If the Secretary deems that a plan change is required during this period, the Secretary shall allow at least one fiscal quarter for the prime sponsor to submit such change, except that the sponsor may at its own discretion submit the required change as part of its plan submittal under paragraph (1).

(Pub. L. 93–203, title I, § 104, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1922.)

PRIOR PROVISIONS

A prior section 814, Pub. L. 93–203, title I, § 104, Dec. 28, 1978, 87 Stat. 843, which related to the establishment of prime sponsor's planning councils, was omitted from the Code in the general revision of Pub. L. 93–203 by Pub. L. 95–524. See section 819 of this title.

Provisions similar to those comprising this section were contained in former section 818 of this title prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 812, 817, 820, 825, 913 of this title.

§ 815. Governor's coordination and special services plan

(a) Submission by State to Secretary

Any State seeking financial assistance under this chapter shall submit a Governor's coordination and special services plan to the Secretary.

(b) Contents

Governor's coordination and special services activities shall include the following—

(1) coordinating all employment and training, education, and related services provided by the State, by prime sponsors, by State education agencies and other appropriate institutions of vocational and higher education, State and local public assistance agencies, and by other providers of such services within the State;

(2) coordinating programs financed under the Wagner-Peyser Act [29 U.S.C. 49 et seq.] and this chapter; including assisting in the negotiation of any agreements (including partnership arrangements described in section 877 of this title) between prime sponsors and State employment security agencies;

(3) assuring that comprehensive employment and training plans do not unnecessarily result in the duplication of services;

(4) assisting the Secretary in enforcing the requirements for Federal contractors and subcontractors to list all suitable employment openings with local offices of the State employment service agencies and to take affirmative action, as required in section 2012(a) of title 38;

(5) assuring the promotion of prime sponsor planning that takes into account conditions prevailing in labor market areas covering more than one prime sponsor area, as well as related activities such as community development, economic development, vocational edu-

cation, vocational rehabilitation, and social services;

(6) exchanging of information between States and prime sponsors with respect to State, interstate, and regional planning for economic development, human resource development, education, and other subjects relevant to employment and training planning;

(7) developing and providing to prime sponsors information on a State and local area basis regarding economic, industrial, and labor market conditions;

(8) making available to prime sponsors, with or without reimbursement and upon request, appropriate information and technical assistance to assist them in developing and implementing their programs;

(9) carrying out special model training and employment programs and related services, which may include programs for offenders similar to programs described in section 871(b)(2) of this title;

(10) providing financial assistance for special programs and services designed to meet the needs of rural areas outside major labor market areas;

(11) providing labor market and occupational information to prime sponsors and appropriate educational agencies and institutions without reimbursement; and

(12) facilitating and fostering the activities of the State Occupational Information Coordinating Committee established pursuant to section 2391(b)(2) of title 20, with special emphasis on the systematic use of occupational information for prime sponsor planning as well as assisting and encouraging the development and use of career outlook information for individuals who are receiving rehabilitation services, students in local schools, and individuals using the services of prime sponsors and local offices of State employment security agencies.

(c) Approval by Secretary

A Governor's coordination and special services plan shall be approved by the Secretary only if the Secretary determines that the plan satisfactorily implements subsection (b) of this section.

(Pub. L. 93-203, title I, § 105, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1925.)

REFERENCES IN TEXT

The Wagner-Peyser Act, referred to in subsec. (b)(2), is act June 6, 1933, ch. 49, 48 Stat. 113, as amended, which is classified principally to chapter 4B (§ 49 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 49 of this title and Tables.

PRIOR PROVISIONS

A prior section 815, Pub. L. 93-203, title I, § 105, Dec. 28, 1973, 87 Stat. 843; Pub. L. 94-444, § 12(b)(1), Oct. 1, 1976, 90 Stat. 1483, which related to conditions for receipt of financial assistance was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See sections 813 and 843 of this title.

Provisions similar to those comprising this section were contained in former section 816 of this title prior to the general revision of Pub. L. 93-203, which comprised this chapter, by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 842, 904 of this title.

§ 816. Complaints and sanctions

(a) Establishment and maintenance of grievance procedures

(1) Except for complaints subject to the provision of paragraph (2), each prime sponsor receiving financial assistance under this chapter or contractor or grantee under subchapter III of this chapter shall establish and maintain a grievance procedure, including provision for hearings within 30 days after the filing of a grievance, and for handling complaints about the program arising from its participants, subgrantees, contractors, and other interested persons. Hearings under such procedure shall be conducted expeditiously and decisions shall be made not later than 60 days after the filing of the grievance involved. With the exception of grievances alleging fraud or any criminal activity, the filing of a grievance must be made within one year of the alleged occurrence.

(2) Whenever the recipient of financial assistance under this chapter is an employer and the participant is an employee of that employer, the recipient shall continue to operate or shall establish and maintain a grievance procedure relating to the terms and conditions of employment.

(b) Investigation of complaints by Secretary

Whenever the Secretary receives a complaint from any interested person or organization (which has exhausted the prime sponsor's grievance system under subsection (a)(1) of this section or which has exhausted or failed to achieve resolution of the grievance under the recipient's grievance system under subsection (a)(2) of this section or under a collective bargaining agreement within the time limits prescribed in subsection (a)(1) of this section or in such agreement) which alleges, or whenever the Secretary has reason to believe (because of an audit, report, on-site review, or otherwise) that a recipient of financial assistance under this chapter is failing to comply with the requirements of this chapter, the regulations under this chapter or the terms of the comprehensive employment and training plan, the Secretary shall investigate the matter. The Secretary shall conduct such investigation, and make the final determination required by the following sentence regarding the truth of the allegation or belief involved, not later than 120 days after receiving the complaint. If, after such investigation, the Secretary determines that there is substantial evidence to support such allegation or belief that such a recipient is failing to comply with such requirements, the Secretary shall, after due notice and opportunity for a hearing to such recipient, determine whether such allegation or belief is true.

(c) Revocation of plan and termination of financial assistance thereunder for discrimination and other failures of prime sponsor

(1) The Secretary shall revoke all or any part of a prime sponsor's comprehensive employment and training plan and terminate financial

assistance thereunder, if prior notice and opportunity for a hearing have been given, when the Secretary determines that the prime sponsor is maintaining a pattern or practice of discrimination in violation of section 834 of this title.

(2) The Secretary shall have the authority to revoke a prime sponsor's comprehensive employment and training plan and terminate financial assistance thereunder, if prior notice and opportunity for a hearing have been given, when the Secretary determines that the prime sponsor is—

(A) failing to make opportunities available equitably among the significant segments of the eligible population in the area it serves;

(B) failing to provide participants with employment or training opportunities at levels of skill and remuneration that are commensurate with their capabilities or potential capabilities;

(C) failing to give due consideration to the eligible population in areas of chronic or concentrated unemployment;

(D) failing to give due consideration to funding of programs of demonstrated effectiveness;

(E) incurring unreasonable administrative costs in the conduct of activities and programs, as determined by the Secretary pursuant to regulations under this chapter;

(F) materially failing to expend funds in a reasonable period of time; or

(G) otherwise materially failing to carry out the purposes and provisions of this chapter or the regulations promulgated pursuant to this chapter.

(d) Termination or suspension of financial assistance for noncompliance with requirements of this chapter

(1) If the Secretary concludes that any recipient of funds under this chapter is failing to comply with any provision of this chapter or the regulations under this chapter or that the recipient has not taken appropriate action against its subcontractors, subgrantees, and other recipients, the Secretary shall have authority to terminate or suspend financial assistance in whole or in part and order such sanctions or corrective actions as are appropriate, including the repayment of misspent funds from sources other than funds under this chapter and the withholding of future funding, if prior notice and an opportunity for a hearing have been given to the recipient. Whenever the Secretary orders termination or suspension of financial assistance to a subgrantee or subcontractor (including operators under a nonfinancial agreement), the Secretary shall have authority to take whatever action is necessary to enforce such order, including action directly against the subgrantee or subcontractor, and an order to the primary recipient that it take such legal action, to reclaim misspent funds or to otherwise protect the integrity of the funds or ensure the proper operation of the program.

(2) If the Secretary concludes that a public service employment program is being conducted in violation of section 823(e)(2), (e)(3), (g)(1), section 824(c), (e), or section 825(g) of this title, or regulations promulgated pursuant to such sections, the Secretary shall, pursuant to paragraph (1) of this subsection, terminate or suspend financial assistance in whole or in part, order the repayment of misspent funds from sources other than funds under this chapter or other funds used in connection with programs funded under this chapter (unless, in view of special circumstances as demonstrated by the recipient, the Secretary determines that requiring repayment would not serve the purposes of attaining compliance with such sections), and order such other sanctions or corrective actions as are appropriate.

(e) Emergency termination or suspension of financial assistance; subsequent hearing; restriction on delegation of authority

In emergency situations, as determined by the Secretary, when it is necessary to protect the integrity of the funds or ensure the proper operation of the program, the Secretary may immediately terminate or suspend financial assistance in whole or in part, provided that prompt notice and opportunity for a subsequent hearing, within 30 days after such termination or suspension, are given to the recipient. The Secretary shall not delegate any of the functions or authority specified in this subsection other than to an officer whose appointment was required to be made by and with the advice and consent of the Senate.

(f) Corrective measures respecting discriminatory practices

If the Secretary determines that any recipient under this chapter has—

(1) discharged or in any other manner discriminated against a participant or against any person in connection with the administration of the program involved or against any person because such person has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter, or has testified or is about to testify in any such proceeding or investigation under or related to this chapter, or otherwise unlawfully denied to any person a benefit to which that person is entitled under the provisions of this chapter or the Secretary's regulations, or

(2) discriminated against any person, failed to serve equitably significant segments of the eligible population, or failed to provide employment or training opportunities at levels of skill and remuneration that are commensurate with the participant's capabilities or potential capabilities;

the Secretary shall, within 30 days, take such action or order such corrective measures, as necessary, with respect to the recipient or the aggrieved person, or both.

(g) Withholding of funds

The Secretary may withhold funds otherwise payable under this chapter in order to recover any amounts expended in any fiscal year in violation of any provision of this chapter, any regulation promulgated pursuant to this chapter, or any term or condition of assistance under this chapter. In the event of any such withholding which results from fraud or abuse, the Secretary may order the prime sponsor to con-

duct the program as specified in the applicable plan on the basis of funds other than funds under this chapter and may enforce such order by appropriate civil action, unless the prime sponsor elects to terminate participation as a grantee under this chapter.

(h) Use of services of State and local agencies and their employees; reimbursement

With the consent and consideration of State agencies charged with the administration of State laws, the Secretary shall be authorized, for the purpose of carrying out this section and section 835 of this title, to utilize the services of State and local agencies and their employees. Notwithstanding any other provision of law, the Secretary is authorized to reimburse, in whole or in part, such State and local agencies and their employees for services rendered for such purposes.

(i) Notice of intended actions; opportunity for resolution

(1) Except as otherwise provided in subsection (e) of this section, the Secretary shall not revoke a prime sponsor's plan, in whole or in part, nor institute corrective action or sanctions against a prime sponsor under this section or any other provision of this chapter, without first providing the prime sponsor with notice by the Secretary of his intended actions and the reasons upon which those intended actions are based, and also providing the prime sponsor—

(A) with an opportunity to informally resolve those matters contained in the Secretary's notice; and

(B) in the event that the prime sponsor and the Secretary cannot informally resolve any matter pursuant to clause (A), with a notice that (i) indicates that efforts to informally resolve matters contained in the Secretary's original notice have been unsuccessful; (ii) lists those matters upon which the parties continue to disagree; and (iii) informs the prime sponsor of any sanctions, corrective action, or any other alteration or modification of the prime sponsor's plan or program intended by the Secretary.

(2) Within 10 days of receipt of the Secretary's notice under paragraph (1)(B), the prime sponsor may request a hearing, but in no event shall the Secretary proceed under this subsection without first fulfilling all the requirements under this subsection.

(j) Unified audit program

In order to ensure compliance with the provisions of this chapter and regulations promulgated under this chapter and to ensure conduct of programs in a manner consistent with the purposes and objectives of this chapter, the Secretary may require prime sponsors to participate in unified audit programs established by the Secretary to provide for the audit of both prime sponsors and their respective subgrantees and subcontractors. In any such case the Secretary may require the prime sponsor to pay, from funds under this chapter available to it for administrative expenses, that portion of the unified audit expenses allocable to the audit of such subgrantees and subcontractors.

(k) Liability of prime sponsors

Nothing in this section shall be deemed to reduce the responsibility and full liability of the prime sponsors and other recipients which receive funds directly from the Secretary.

(l) Civil actions or other remedies

The existence of remedies under this section shall not preclude any person, who alleges that an action of a prime sponsor or of any other recipient violates any of the provisions of the chapter or the regulations promulgated under the chapter, from instituting a civil action or pursuing any other remedies authorized under Federal, State, or local law.

(Pub. L. 93-203, title I, § 106, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1926.)

PRIOR PROVISIONS

A prior section 816, Pub. L. 93-203, title I, § 106, Dec. 28, 1973, 87 Stat. 845; Pub. L. 94-444, § 12(b)(2), Oct. 1, 1976, 90 Stat. 1483, which provided for special provisions relating to State prime sponsors was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 815 of this title.

Provisions similar to those comprising this section were contained in former section 818 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 812, 817, 829, 834 of this title.

§ 817. Judicial review

(a) If any prime sponsor is dissatisfied with the Secretary's final action with respect to the disapproval of its comprehensive employment and training plan under section 814 of this title, or if any recipient is dissatisfied with the Secretary's final action with respect to a sanction under section 816 of this title, or if any interested person is dissatisfied with or aggrieved by any final action of the Secretary authorized under section 816 of this title, such prime sponsor, recipient, or person may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which the prime sponsor, recipient, or person resides or transacts business a petition for review of such action.

(b) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may, in whole or in part, set aside the findings of the Secretary or remand the case to the Secretary in whole or in part to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the previous action, and shall certify to the court the record of the further proceedings.

(Pub. L. 93-203, title I, § 107, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1929.)

PRIOR PROVISIONS

A prior section 817, Pub. L. 93-203, title I, § 107, Dec. 28, 1973, 87 Stat. 846; Pub. L. 94-482, title II, § 203(a), Oct. 12, 1976, 90 Stat. 2213; Pub. L. 95-40, § 1(28)(A), June 3, 1977, 91 Stat. 207, which related to the establishment of a State Manpower Services Council, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 820 of this title.

Provisions similar to those comprising this section were contained in former section 819 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 913 of this title.

§ 818. Reallocation of funds

(a) The Secretary is authorized to reallocate any amount of any allocation under this chapter to the extent that the Secretary determines that the recipient will not be able to use such amount within a reasonable period of time.

(b)(1) Any allocations to a prime sponsor designated under section 811(c) of this title may be reallocated only if the Secretary has provided 30 days advance notice to the prime sponsor, to the Governor, and to the general public. During such period comments may be submitted to the Secretary.

(2) After considering any comments submitted during such period, the Secretary shall notify the Governor and the affected prime sponsor of any decision to reallocate funds, and shall publish such decision in the Federal Register.

(3) In reallocating any such funds, the Secretary shall give priority first to other prime sponsor areas within the same State and then to prime sponsor areas within other States.

(Pub. L. 93-203, title I, § 108, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1929.)

PRIOR PROVISIONS

A prior section 818, Pub. L. 93-203, title I, § 108, Dec. 28, 1973, 87 Stat. 847; Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845, which provided for the review of comprehensive manpower plans was omitted from the Code in the general revision of this Pub. L. 93-203 by Pub. L. 95-524. See sections 814 and 816 of this title.

Provisions similar to those comprising this section were contained in former section 813 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 819. Prime sponsor's planning council

(a) Establishment

Each prime sponsor designated under section 811(c) of this title shall establish a planning council.

(b) Membership

Each planning council established under subsection (a) of this section shall consist of members who are representative of the eligible population (including significant segments thereof), organized labor, employees who are not represented by organized labor, community-based organizations, the employment service, veterans organizations, representatives of handicapped individuals, vocational education agencies, public assistance agencies, other education and training agencies and institutions, business, labor, and, where appropriate agricultural employers and workers.

(c) Appointment of members; designation of chairperson; staff

The prime sponsor shall appoint the members of the planning council, designate a public member as chairperson and furnish staff to provide professional, technical, and clerical assistance to the council.

(d) Meetings

The planning council shall meet no less than 5 times per year. The meetings shall be publicly announced, and, to the extent appropriate, open to and accessible to the general public.

(e) Duties and functions of council; weight given to recommendations of council

The council shall (1) participate in the development of, and submit recommendations regarding, the prime sponsor's comprehensive employment and training plan and the basic goals, policies, and procedures of the prime sponsor's programs and of other employment and training programs in the prime sponsor's area; (2) monitor, and provide for objective evaluation of, employment and training programs conducted in such area; and (3) provide for continuing analyses of the need for employment, training, and related services in such area, including efforts to reduce and eliminate artificial barriers to employment. Special consideration shall be given to the recommendations of the planning council, but any final decision with respect to such recommendations shall be made by the prime sponsor.

(f) Consideration of comments and recommendations of private industry council

The planning council shall take into consideration any comments and recommendations of the private industry council in the development of the comprehensive employment and training plan.

(Pub. L. 93-203, title I, § 109, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1930.)

PRIOR PROVISIONS

A prior section 819, Pub. L. 93-203, title I, § 109, Dec. 28, 1973, 87 Stat. 848, which provided for judicial review with respect to comprehensive manpower plans was omitted in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 817 of this title.

Provisions similar to those comprising this section were contained in former section 814 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 904, 912 of this title.

§ 820. State employment and training council

(a)(1) Any State which desires to receive financial assistance under this chapter shall establish a State employment and training council (hereinafter in this section referred to as the "Council"). Funding for the council shall be provided pursuant to section 842(c) of this title.

(2) The council shall be appointed by the Governor, who shall designate one public member thereof to be chairperson. The Governor shall furnish staff to provide professional, technical, and clerical assistance to the council.

(3) The council shall be composed of—

(A) representatives of the units or combinations of units of general local government in such State, including those which are prime

sponsors, who together shall comprise at least one-quarter of the membership of the council and shall be nominated by the chief executive officers of the units or combination of units of general local government;

(B) representatives of organized labor, business, and agricultural employers and workers, who together shall comprise one-quarter of the membership of the council;

(C) representatives of the eligible population (including significant segments thereof) and of the general public, who together shall comprise one-quarter of the membership of the council; and

(D) representatives of service deliverers, who together shall comprise not more than one-quarter of the membership of the council, including at least—

(i) one representative each of the State board of vocational education and the public employment service of such State;

(ii) one representative of the State Advisory Council on Vocational Education created pursuant to section 2305 of title 20;

(iii) one representative of the State public assistance agency;

(iv) one representative of each such other State agency as the Governor may determine to have a direct interest in overall employment and training and human resource utilization within the State;

(v) representatives of community-based organizations;

(vi) representatives of veterans organizations; and

(vii) representatives of handicapped individuals.

(4) The council shall meet at such times (but at least 5 times each year) and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

(b) The council shall—

(1) review continuously the operation of programs conducted by each prime sponsor, and the availability, responsiveness, and adequacy of State services, and make recommendations to the prime sponsors, to agencies providing employment and training services, to the Governor, and to the general public with respect to ways to improve the effectiveness of such programs or services;

(2) make an annual report to the Governor which shall be a public document, and issue such other studies, reports, or documents as it deems advisable to assist prime sponsors or to otherwise help carry out the purposes of this chapter;

(3)(A) identify, in coordination with the State Advisory Council on Vocational Education, the employment and training and vocational education needs of the State and assess the extent to which employment and training, vocational education, vocational rehabilitation, public assistance, and other programs assisted under this chapter and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and

(B) comment at least once annually on the reports of the State Advisory Council on Vocational Education, which comments shall be included in the annual report submitted by that Council pursuant to section 2305 of title 20;

(4) review the comprehensive employment and training plans of prime sponsors pursuant to section 814 of this title, especially with respect to nonutilization or duplication of existing services;

(5) review plans of all State agencies providing employment, training, and related services, and provide comments and recommendations to the Governor, the State agencies and the appropriate Federal agencies on the relevancy and effectiveness of employment and training and related service delivery systems in the State; and

(6) participate in the development of the Governor's coordination and special services plan.

(Pub. L. 93-203, title I, § 110, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1930.)

PRIOR PROVISIONS

A prior section 820, Pub. L. 93-203, title I, Dec. 28, 1973, 87 Stat. 848, which related to the authority of the Secretary to provide services was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 812 of this title.

Provisions similar to those comprising this section were contained in former section 817 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 842 of this title; title 15 section 3116.

§ 821. Consultation

(a) The Secretary shall consult with the Secretary of Health, Education, and Welfare, with respect to arrangements for services of a health, education, or welfare character under this chapter, and the Secretary of Health, Education, and Welfare shall solicit the advice and comments of appropriate State agencies with respects to health, education, and welfare services. Such services shall include basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions.

(b) The Secretary, in carrying out or supporting programs under this chapter, shall consult, as appropriate, with the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Director of the ACTION Agency, the Director of the Community Services Administration, the Administrator of Veterans Affairs, and such other officials as appropriate.

(Pub. L. 93-203, title I, § 111, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1932.)

AMENDMENT OF SUBSECTION (a)

Pub. L. 96-88, title V, § 508(h)(1), title VI, § 601(a), Oct. 17, 1979, 93 Stat. 693, 696, provided that, effective 180 days after the first Secretary of Education takes office, or on any earlier date on or after Oct. 1, 1979, as the President prescribes and publishes in

the Federal Register, subsec. (a) of this section is amended to read as follows:

(a) The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or welfare character under this chapter. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this chapter, and the Secretary of Education and the Secretary of Health and Human Services shall solicit the advice and comments of appropriate State agencies with regard to, respectively, education and health and welfare services. Such services shall include basic or general education, educational programs conducted for offenders, institutional training, health care, child care, and other supportive services, and new careers and job restructuring in the health, education, and welfare professions.

PRIOR PROVISIONS

A prior section 821, Pub. L. 93-203, title I, § 111, Dec. 28, 1973, 87 Stat. 849, which provided for allowances for individuals receiving training or education with respect to comprehensive manpower services was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 826 of this title.

Provisions similar to those comprising this section were contained in former section 875 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 822. Authorization of appropriations

(a)(1) There are authorized to be appropriated such sums as may be necessary for fiscal year 1979 and for each of the three succeeding fiscal years to carry out subchapter I of this chapter.

(2)(A) There are authorized to be appropriated $2,000,000,000 for fiscal year 1979 to carry out parts A, B, and C of subchapter II of this chapter.

(B) There are authorized to be appropriated $3,000,000,000 for fiscal year 1979 to carry out part D of subchapter II of this chapter.

(C) Subject to subsection (b)(1) of this section, there are authorized to be appropriated such sums as may be necessary for fiscal year 1980 and for each of the two succeeding fiscal years to carry out parts A, B, C, and D of subchapter II of this chapter.

(3) Subject to subsection (b)(2) of this section, there are authorized to be appropriated such sums as may be necessary for fiscal year 1979 and for each of the three succeeding fiscal years to carry out subchapter III of this chapter.

(4)(A) There are authorized to be appropriated $2,250,000,000 for fiscal year 1979 to carry out subchapter IV of this chapter.

(B) There are authorized to be appropriated $2,400,000,000 for fiscal year 1980 to carry out subchapter IV of this chapter.

(C) There are authorized to be appropriated such sums as may be necessary for fiscal year 1981 and for the succeeding fiscal year to carry out parts B and C of subchapter IV of this chapter.

(5) There are authorized to be appropriated such sums as may be necessary for fiscal year 1979 and for each of the three succeeding fiscal years to carry out subchapter V of this chapter.

(6) There are authorized to be appropriated for fiscal year 1979 and for each of the three succeeding fiscal years the amount determined pursuant to section 962 of this title to carry out subchapter VI of this chapter.

(7)(A) There are authorized to be appropriated $500,000,000 for fiscal year 1979 to carry out subchapter VII of this chapter.

(B) There are authorized to be appropriated $525,000,000 for fiscal year 1980 to carry out subchapter VII of this chapter.

(8)(A) There are authorized to be appropriated $350,000,000 for fiscal year 1979 to carry out subchapter VIII of this chapter.

(B) There are authorized to be appropriated $400,000,000 for fiscal year 1980 to carry out subchapter VIII of this chapter.

(C) There are authorized to be appropriated such sums as may be necessary for fiscal year 1981 and for the succeeding fiscal year to carry out subchapter VIII of this chapter.

(b)(1) Of the amount appropriated to carry out subchapter II of this chapter for fiscal years 1980, 1981, and 1982, the amount which shall be available for part D of such subchapter for a fiscal year shall not exceed 60 percent of the total amount appropriated for such subchapter for such fiscal year.

(2) Of the amount appropriated to carry out this chapter for any fiscal year, not more than 20 percent of such amount (excluding any amount made available for carrying out part D of subchapter II and subchapter VI of this chapter) shall be available for carrying out the provisions of subchapter III of this chapter. From such amount made available for subchapter III activities, the Secretary shall transfer an amount which shall be not less than $3,000,000 and not more than $5,000,000 for any fiscal year to the National Occupational Information Coordinating Committee established pursuant to section 2391(b) of title 20 for purposes described in section 883 of this title.

(c) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds appropriated to carry out this chapter, which are not obligated prior to the end of the fiscal year for which such funds were appropriated, shall remain available for obligation during the succeeding fiscal year, and any funds obligated in any fiscal year may be expended during a period of 2 years from the date of obligation.

(d)(1) For the purpose of affording adequate notice of funding available under this chapter, appropriations under this chapter are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are first available for obligation.

(2) In order to effect a transition to the advance funding method of timing appropriation action, the provisions of this subsection shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

(Pub. L. 93-203, title I, § 112, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1932.)

PRIOR PROVISIONS

A prior section 822, Pub. L. 93-203, title I, § 112, Dec. 28, 1973, 87 Stat. 850, which provided for supplemental vocational education assistance was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 844 of this title.

Provisions similar to those comprising this section were contained in former section 802 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

WAIVER OF LIMITS ON FUNDS AVAILABLE FOR CARRYING OUT FORMER SUBCHAPTERS III AND IV

Pub. L. 95-93, title III, § 304, Aug. 5, 1977, 91 Stat. 650, provided that: "The limitations of section 4(e) of the Comprehensive Employment and Training Act of 1973 [former section 802(e) of this title, now covered by this section] shall not apply to appropriations for summer youth employment programs under section 304(a) [former section 874(a) of this title], part C of title III [former part C of subchapter III of this chapter, now covered by section 893 et seq. of this title] (as added by this Act), and title IV of such Act [former subchapter IV of this chapter, now covered by section 923 et seq. of this title] for the fiscal year 1978."

PART B—GENERAL PROVISIONS

§ 823. Conditions applicable to all programs

Except as otherwise provided, the following conditions are applicable to all programs under this chapter:

(a)(1) No person shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any such program because of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.

(2) Participants shall not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

(3) Every participant, prior to entering upon employment or training, shall be informed of that individual's rights and benefits in connection with such employment or training; acceptance of family planning services shall be voluntary on the part of the individual, and shall not be a prerequisite to eligibility for, or receipt of, any benefit under the program.

(4) Programs shall contribute, to the maximum extent feasible, to the elimination of artificial barriers to employment and occupational advancement.

(5) Prime sponsors shall make efforts to remove architectural barriers to employment of the handicapped.

(b)(1)(A) Employment and training opportunities for participants shall be made available by prime sponsors on an equitable basis in accordance with the purposes of this chapter among significant segments of the eligible population giving consideration to the relative numbers of eligible persons in each such segment.

(B) In the administration of programs under this chapter, members of the eligible population to be served shall be provided maximum employment opportunities, including opportunities for further occupational training and career advancement. Prime sponsors shall make special efforts to recruit and hire qualified persons reflecting the significant demographic segments of the population residing in the area.

(2)(A) The Secretary shall take appropriate steps to provide for the increased participation of qualified disabled and Vietnam-era veterans (with special emphasis on those who served in the Armed Forces in the Indochina Theatre on or after August 5, 1964, and on or before May 7, 1975) in public service employment programs and job training opportunities supported under this chapter, but nothing in this chapter shall authorize the Secretary to establish a hiring or participation goal for such veterans. In carrying out this paragraph, the Secretary shall consult with and solicit the cooperation of the Administrator of Veterans' Affairs. Such steps shall include employment, training, supportive services, technical assistance and training, support for community based veterans programs, and maintenance and expansion of private sector veterans employment and training initiatives and such other programs or initiatives as are necessary to serve the unique readjustment, rehabilitation, and employment needs of veterans.

(B) Special efforts shall be made to acquaint such veterans with the employment and training opportunities available under this chapter and to coordinate efforts in behalf of such veterans with those activities authorized by chapter 41 of title 38 (relating to job counseling and employment services for veterans), and other similar activities carried out by other public agencies or organizations.

(C) Prime sponsors shall provide such arrangements as may be appropriate to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under section 1787 of title 38.

(c)(1) All persons participating in training under this chapter shall receive allowances pursuant to section 826 of this title; no participant may receive allowances from funds under this chapter for institutional or classroom training for more than 104 weeks in a 5-year period.

(2) Subject to section 847(b) of this title, no individual shall participate in programs receiving financial assistance under this chapter for longer than a total of 30 months in any 5-year period. For purposes of this subparagraph, no period of participation prior to October 1, 1978, shall be included in the computation of such 30 months.

(d)(1) Conditions of employment and training shall be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant.

(2) Appropriate health, safety and other standards for work and training shall be established and maintained.

(3) Household support obligations shall be taken into account, and special consideration shall be given alternative working arrangements such as flexible hours of work, worksharing arrangements, and part-time jobs, particularly for parents of young children and for older persons.

(4) All programs for in-school youth shall be consistent with applicable State educational standards.

(5) Appropriate workers' compensation or equivalent protection shall be provided to all participants.

(e)(1) The program shall result in an increase in employment and training opportunities over those opportunities which would otherwise be available.

(2) No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(3) No program shall impair existing contracts for services.

(4) No funds shall be used to assist in relocating establishments, or parts thereof, from one area to another or locating new branches, subsidiaries, or affiliates unless the Secretary determines that such relocation or location will not result in an increase in unemployment in the area of original location or in any other area.

(f)(1) All programs, to the maximum extent feasible, shall contribute to occupational development, upward mobility, development of new careers, and overcoming sex-stereotyping (including procedures which will lead to skill development and job opportunities for participants in occupations traditionally limited to the opposite sex).

(2) No person shall be trained for an occupation which requires less than 2 weeks of preemployment training unless there are immediate employment opportunities available in that occupation.

(3) All programs shall be designed, to the maximum extent practicable, consistent with every individual's fullest capabilities, to lead to employment opportunities enabling participants to increase their earned income and to become economically self-sufficient.

(4) No person shall be referred for training unless there is a reasonable expectation of employment in the occupation for which such person is being trained. To the extent feasible, public service jobs shall be provided in occupational fields which are most likely to expand within the public or private sector.

(5) Programs of institutional training shall be designed for occupations in which skill shortages exist.

(g)(1)(A) No program shall substitute funds under this chapter for other funds in connection with work that would otherwise be performed.

(B) Jobs shall be created that are in addition to those that would be funded in the absence of assistance under this chapter.

(C) Funds shall be used to supplement, and not to supplant, the level of funds that would otherwise be made available from non-Federal sources for the planning and administration of programs.

(2) Programs shall use services and facilities available (with or without reimbursement) from Federal, State, and local agencies to the extent they are deemed effective by the prime sponsor.

(h)(1) No nongovernmental individual, institution, or organization shall be paid funds provided under this chapter to conduct an evaluation of any program under this chapter if such individual, institution or organization is associated with that program as a consultant or technical advisor, or in any similar capacity.

(2) No member of any council under this chapter shall cast a vote on any matter which has a direct bearing on services to be provided by that member (or any organization which that member directly represents) or vote on any matter which would financially benefit the member or the organization which the member represents.

(i) Except as provided in section 847(b) of this title, work experience programs conducted under this chapter shall not exceed a total of 1,000 hours for any individual (other than an in-school youth), for any year, and not more than 2,000 hours within a 5-year period beginning on October 27, 1978. Work experience shall only be for persons who need assistance in becoming accustomed to basic work requirements, including basic work skills, in order to be able to compete successfully in the labor market.

(j) Funds available for employment benefits under this chapter may be used, for the duration of participation, for contributions on behalf of participants who are, prior to July 1, 1979, enrolled in retirement systems or plans. With respect to participants enrolled in retirement systems or plans on or after such date, except as otherwise provided in regulations promulgated by the Secretary, no funds under this chapter may be used for contributions to retirement systems or plans unless such contributions bear a reasonable relationship to the cost of providing benefits to participants. Such regulations shall take into consideration circumstances where efforts are being made to change State or local laws or both affecting retirement coverage for individuals who are participants in activities funded pursuant to this chapter. Pursuant to section 882 of this title, the Secretary shall provide technical assistance to recipients to enable retirement systems or plans to comply with section 824(k) of this title and this subsection.

(k) Small and minority-owned businesses shall be provided maximum reasonable opportunity to compete for contracts for supplies and services including, where appropriate, the use of set-asides.

(*l*) The Secretary shall promulgate regulations to insure that payments to employers organized for profit shall not exceed the difference between the costs of recruiting, training, and supportive services and the costs of lower productivity associated with employing and individual who lacks the requisite skills to perform the job in which the individual is placed and such costs for those otherwise employed. The length of time for which such payments may be made shall not exceed that period of time generally required for the acquisition of skills needed for a position within a particular occupation.

(m) Prime sponsors shall provide, where employment opportunities already exist or where

there is a reasonable expectation of near-term expansion of such employment potential, employment and training opportunities in the development and use of solar, geothermal, hydroelectric, and other alternative energy technologies, and conservation, especially those clean, safe, renewable resources which may assist communities in resolving energy demand problems, thereby reducing their reliance on conventional nonrenewable fuels. For purposes of this section, solar energy sources has the meaning set forth in section 5552 of title 42.

(n)(1) No prime sponsor may use any funds received under this chapter to assist or promote union organizing. Without limiting the powers otherwise granted to the Secretary, funds found by the Secretary to be in violation of this subsection shall be refunded promptly to the United States Treasury.

(2) No individual may be required to join a union as a condition of enrolling in a program assisted under this chapter in which only institutional training is provided, unless such institutional training involves individuals employed under a collective-bargaining agreement which contains a union security provision.

(o) No funds provided under this chapter shall be paid to any non-governmental organization, association, firm or other entity for the conduct of any program or activity (other than under subchapter VII of this chapter or on-the-job training) under this chapter unless—

(1) such organization, association, firm, or other entity has a meritorious written plan which has been reviewed and evaluated by the prime sponsor or, where appropriate, the Secretary, according to standards promulgated by the Secretary and is found to meet the purposes and requirements of the chapter; and

(2) such organization, association, firm or other entity is selected on the basis of merit which shall mean at least that such organization, association, firm or other entity—

(A) has the administrative capability to perform effectively under the program;

(B) has submitted a written plan under paragraph (1) that compares favorably to other plans; and

(C) has not been seriously deficient in its conduct of or participation in any Department of Labor program in the past, or, is not a successor organization to one that was seriously deficient in the past, unless the Secretary in his discretion certifies after a clear, convincing, and detailed showing, that the deficiencies will be eliminated and performances substantially improved; and

(3) a comprehensive and independent monitoring program designed to insure compliance with the plan and this chapter is in effect in accordance with standards promulgated by the Secretary requiring adequate training of monitors and procedures for the prompt follow up of problems found during the monitoring process.

The Secretary shall issue regulations to achieve the objectives of this subsection for subchapter VII of this chapter and on-the-job training programs with a minimum of burden on recipients.

(p) No recipient shall knowingly use any funds under this chapter to enroll or serve any person who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment.

(q) Each prime sponsor receiving funds under this chapter shall establish an independent unit to monitor compliance with the requirements of this chapter, the regulations issued thereunder, and the comprehensive employment and training plan. The Secretary shall annually assess the effectiveness of the units established pursuant to the preceding sentence, with particular regard to the adequacy of provisions made for funding, staffing, and insuring the independence and objectivity of monitoring practices and methods.

(Pub. L. 93-203, title I, § 121, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1934.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 983 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 813, 816, 824, 825, 846, 847, 908, 912, 915, 919, 983 of this title.

§ 824. Special conditions applicable to public service employment

Except as otherwise provided, the following conditions shall apply to all public service employment programs receiving financial assistance under this chapter:

(a) Only persons residing within the area qualifying for assistance shall be employed, and the public services provided by such jobs, to the extent feasible, shall be designed to benefit the residents of such area.

(b)(1)(A) Public service employment under this chapter is intended for eligible persons who are the most severely disadvantaged in terms of their length of unemployment and their prospects for finding employment.

(B) Special consideration in filling public service jobs shall be given to eligible persons who are public assistance recipients or who are eligible for public assistance but not receiving such assistance.

(2) Special consideration shall be given to eligible disabled and Vietnam-era veterans (with special emphasis on those who served in the Indochina Theatre on or after August 5, 1964, and on or before May 7, 1975) in accordance with procedures established by the Secretary, and special attention shall be given to the development of jobs which will utilize, to the maximum extent feasible, the skills which such veterans acquired in connection with their military training and service.

(3)(A) Special emphasis in filling public service jobs shall be given to eligible members of groups specifically identified in section 871(a) of this title as facing particular labor market disadvantages, taking into account the household support obligations of persons applying for such jobs, but nothing in this chapter shall authorize the Secretary to establish hiring or participation goals for such persons.

(B) Special efforts shall be made to acquaint such persons with the employment and training opportunities available under this chapter, and to coordinate efforts in behalf of such persons with activities authorized by section 871 of this title.

(c)(1) No person shall be employed or job opening filled (A) when any other person not supported under this chapter is on layoff from the same or any substantially equivalent job, or (B) when the employer has terminated the employment of any regular employee not supported under this chapter or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a public service employee.

(2) No funds for public service employment programs under this chapter may be used to provide public services, through a private organization or institution, which are customarily provided by a State, a political subdivision, or a local educational agency in the area served by the program.

(d) No jobs shall be created in a promotional line that will infringe in any way upon the promotional opportunities of persons currently employed in jobs not subsidized under this chapter.

(e) No public service jobs shall be substituted for existing federally assisted jobs.

(f) The Secretary shall assure that prime sponsors have undertaken, or will undertake, analyses and reevaluations of job descriptions and, where feasible, revisions of qualification requirements at all levels of employment, including civil service requirements and practices relating thereto, in accordance with regulations prescribed by the Secretary, with a view toward removing artificial barriers to public employment (as defined in section 802 of this title) of those whom it is the purpose of this chapter to assist.

(g) Financial records relating to public service employment programs, and records of the names, addresses, positions, and salaries of all persons employed in public service jobs, shall be maintained and made available to the public.

(h)(1) All persons participating in public service employment shall receive wages in accordance with section 826 of this title.

(2) No participant may be paid wages from funds under this chapter for public service employment for more than 78 weeks in a 5-year period.

(3) For purposes of paragraph (2), no more than 26 weeks of public service employment financed in whole or in part under this chapter prior to October 1, 1978, shall be considered as part of the 78 weeks.

(4)(A) The Secretary may waive the provisions of paragraph (2) or of section 823(c)(2) of this title to provide a temporary extension of time for a limited number of persons who were originally hired in a public service employment program prior to October 1, 1978, and who continue to be so employed on September 30, 1979, in the case of a prime sponsor which the Secretary determines has faced unusually severe hardships in its efforts to transition public service employees into regular public or private employment not supported under this chapter or in the case of Native American entities who operate programs authorized under section 872(c)(1) of this title.

(B) The Secretary may waive the provisions of paragraph (2), with respect to any area served by a unit of general local government which is eligible to be a prime sponsor (or any area served by such a Native American entity) in which the rate of unemployment is equal to or exceeds 7 percent or, in the case of a prime sponsor which is a State, any area under the jurisdiction of a unit of general local government in which the rate of unemployment is equal to or exceeds 7 percent, to provide a temporary extension of time, which shall be no greater than 12 months in duration (and which shall be subject to the provisions of section 823(c)(2) of this title) for persons hired on or after October 1, 1978, in a public service employment program under any subchapter of this chapter in the case of a recipient which the Secretary determines has faced unusually severe hardships in its efforts to transition public service employees into regular public or private employment not supported under this chapter because of high unemployment in the area of service.

(i)(1) Funds under this chapter shall not be used to pay wages to any individual employed in a public service job at a rate in excess of $10,000 per year, but such maximum shall be adjusted upward for particular areas served by recipients as determined by the Secretary, on the basis of the wage adjustment index issued in accordance with paragraph (3) of this subsection. In no case shall such maximum be increased by more than 20 percent, except in the case of an area in which the average wage (during the calendar year preceding the beginning of the applicable fiscal year) in employment covered under Federal or State unemployment compensation laws (without regard to any limitation on the amount of such wages subject to contribution under such law) exceeds 150 percent of the national average wage in such employment.

(2) In order to provide the maximum number of employment and training opportunities under this chapter, the Secretary shall issue appropriate standards to be maintained on an area basis with respect to average federally-supported wage rates for public service jobs under this chapter. Such standards shall be designed to assure that for particular areas served by recipients, as determined by the Secretary, an annual average federally-supported wage rate per public service jobholder equivalent to $7,200, as adjusted in accordance with the wage adjustment index issued in accordance with paragraph (3) of this subsection, will not be exceeded. Average wage rates established under such standards for public service jobs for each area shall be adjusted annually by the Secretary by a percentage equal to the change in average wages in regular employment not supported under this chapter in such area.

(3) The Secretary shall issue and publish annually an area wage adjustment index based upon the ratio which annual average wages in regular public and private employment in various areas served by recipients bear to the average of all such wages nationally, on the basis of

the most satisfactory data the Secretary determines to be available.

(4)(A) Except as otherwise provided in section 969 of this title, no public service employment participant may be provided wages for any public service employment job from sources other than this chapter.

(B) Notwithstanding subparagraph (A), any person in public service employment on September 30, 1978, receiving wages from sources other than this chapter may continue to receive such wages.

(j) Notwithstanding any eligibility limitation on public service employment in this chapter, a person who on September 30, 1978, held a public service employment position under this chapter may continue in such position subject to subsection (h) of this section.

(k) All persons employed in public service jobs shall be provided workers' compensation, health insurance, unemployment benefits, and other benefits and working conditions at the same level and to the same extent as other employees working a similar length of time, doing the same type of work and similarly classified. Any such classification must be reasonable and must include nonfederally financed employees, but within any single classification a distinction may be made between public service employees and other employees for purposes of determining eligibility for participation in retirement systems or plans which provide benefits based on age or service or both. Nothing in this subsection or in section 823(j) of this title shall be deemed to require a contribution to a retirement system or plan for the purpose of providing retirement benefits based on age or service, or both, to a public service employee unless funds under this chapter are available, pursuant to section 823(j) of this title to make such contribution.

(*l*) The Secretary, through State employment security agencies, shall inform unemployment compensation recipients and other applicants for assistance from the employment security agency of any available public service jobs for which they may be eligible.

(m) To the extent feasible, public service jobs shall be provided in occupational fields which are most likely to expand within the public and private sectors, and to the extent compatible with such objectives, shall meet community needs including but not limited to community betterment activities (including rehabilitation of public properties, assistance in the weatherization of dwellings occupied by low income families, demonstration of energy conserving measures including solar energy techniques, removal of architectural barriers to access by handicapped persons to public facilities, and neighborhood revitalization), education, health care, transportation services, crime prevention and control, and environmental quality control.

(n) No individual shall be eligible to be employed in a public service employment position, if such individual has, within 6 months prior to the determination, voluntarily terminated, without good cause, his or her last previous full-time employment at a wage rate not less than the Federal minimum wage as prescribed under section 206(a)(1) of this title.

(Pub. L. 93-203, title I, § 122, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1938.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 848 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 816, 823, 858, 859, 878, 968, 969 of this title.

§ 825. Administrative provisions

(a) Restriction on arrangements for training and employment programs in lower wage industries

No authority conferred by this chapter shall be used to enter into arrangements for, or otherwise establish, any employment and training programs in the lower wage industries, except for those jobs (1) for which there exists a training program, approved by the Secretary, of a specified length of time designed to teach specific skills, and (2) where the rate of labor turnover does not exceed substantially the rate of labor turnover in other industries in the same area.

(b) Sharing of plan between prime sponsor and other recipients

The Secretary shall provide for the sharing of the comprehensive employment and training plans between the prime sponsors and other recipients in the prime sponsor's area in order to assure maximum feasible coordination of activities and programs within the area and to minimize duplication.

(c) Inclusion of work on projects for near poor in weatherization projects under this chapter; adequate number of skilled supervisory personnel; facilitation and extension of weatherization projects; regulations respecting work on rehabilitation of housing for lower-income families

(1) Notwithstanding any other provisions of law, employment and training furnished under this chapter in connection with weatherization projects may include work on projects for the near poor, including families having incomes which do not exceed 125 percent of the poverty level as determined in accordance with the criteria established by the Director of the Office of Management and Budget, and projects approved by the Community Service Administration pursuant to section 2809(a)(5) of title 42 or the Department of Energy pursuant to title IV of the Energy Conservation and Production Act of 1976 [42 U.S.C. 6851 et seq.].

(2) Recipients of funds under this chapter shall assure an adequate number of supervisory personnel for weatherization projects, who shall be adequately trained in skills needed to carry out the project and to instruct participants in skills needed to carry out a project.

(3) The Secretary shall facilitate and extend projects for work on the weatherization of low income housing in subchapters II, III, IV, and VI of this chapter, so as to achieve the most efficient match of manpower funds to materials funds. The Secretary shall, in coordination with other appropriate agencies, provide technical assistance and otherwise encourage prime

sponsors, serving areas where such projects would contribute to energy savings, to develop and continue weatherization projects as part of their programs under this chapter to best prepare applicants for employment in energy related jobs in unsubsidized employment.

(4) The Secretary shall issue regulations setting forth conditions under which prime sponsors, in carrying out community improvement projects, community betterment activities, and public service employment projects under this chapter, may provide work for eligible participants on the rehabilitation of housing for lower-income families as defined in section 1437(f)(1) of title 42 as part of community revitalization or stabilization projects.

(d) Basis of allocation; publication of proposed amount and formula

(1) All allocations under this chapter shall be based on the latest available data and estimates satisfactory to the Secretary.

(2) Whenever the Secretary allocates funds required to be allocated by formula under this chapter, the Secretary shall publish the proposed amount to be distributed to each prime sponsor.

(3) Whenever the Secretary utilizes a formula to allocate funds made available for distribution in the Secretary's discretion under the chapter (except funds appropriated for subchapter III of this chapter), the Secretary shall, not later than 30 days prior to such allocation, publish the formula in the Federal Register for comment along with the rationale for the formula and the proposed amount to be distributed to each prime sponsor. After consideration of comments received under the preceding sentence, the Secretary shall publish final allocations.

(e) Eligibility of unemployed persons

For purposes of eligibility for participation in a program under this chapter, no person shall be considered as unemployed unless such person has been unemployed for at least seven consecutive days.

(f) Pooling of funds

(1) All funds received under any subchapter of this chapter, which are allowed to be used for administrative costs under the provisions of the subchapter under which they were received, may be pooled by the recipient so that they may be used to administer all programs under this chapter, and may be used to plan for the administration of subchapter VI programs without regard to present funding for such programs.

(2) Nothing in section 823 of this title or this section shall be deemed to authorize the Secretary to pre-approve the selection of legal counsel by a prime sponsor, but the Secretary shall assure that no funds available for administrative costs under any subchapter of this chapter are used by a prime sponsor for making payments on contracts for legal or other associated services unless the prime sponsor certifies that—

(A) the payments are not unreasonable in relation to the fees charged by other contractors providing similar services; and

(B) the services could not be competently provided through employees of the prime sponsor or other available State or local governmental employees.

(g) Establishment of standards and procedures

The Secretary, by regulation, shall establish such standards and procedures for recipients of funds under this chapter as are necessary to assure against program abuses including, but not limited to, nepotism; conflicts-of-interest; the charging of fees in connection with participation in the program; excessive or unreasonable legal fees; the improper commingling of funds under the chapter with funds received from other sources; the failure to keep and maintain sufficient, auditable, or otherwise adequate records; kickbacks; political patronage; violations of applicable child labor laws; the use of funds for political, religious, antireligious, unionization, or antiunionization activities; the use of funds for lobbying local, State, or Federal legislators; and the use of funds for activities which are not directly related to the proper operation of the program.

(h) Retention of generated income

Pursuant to regulations of the Secretary, income generated under any program may be retained by the recipient to continue to carry out the program, notwithstanding the expiration of financial assistance for that program.

(i) Responsibilities of recipients

Every recipient which receives funds directly from the Secretary shall be responsible for the allocation of such funds and the eligibility of those enrolled in the program and shall have responsibility to take action against its subcontractors, subgrantees, and other recipients to eliminate abuse in their programs and to prevent any misuse of funds by such subcontractors, subgrantees, and other recipients. Prime sponsors may delegate the responsibility for determination of eligibility under reasonable safeguards, including provisions for reimbursement of cost incurred because of erroneous determinations made with insufficient care, provided that the Secretary has approved such an arrangement pursuant to the provisions of section 814(a) of this title.

(j) Payment of placement fees prohibited

Federal assistance under this chapter shall not be used for the payment of a fee for the placement of any persons in a training or employment program under this chapter. Nor may any person or organization charge a fee for the placement or referral of any person in or to such program.

(k) Notification of Governor and prime sponsor

The Secretary shall notify the Governor and the appropriate prime sponsor of any activity to be funded by the Secretary under this chapter within the State or prime sponsor area.

(*l*) Special consideration to effective community-based organization

The Secretary and recipients of financial assistance under this chapter shall give special consideration in carrying out programs authorized by this chapter, to community-based orga-

nizations, as defined in section 802 of this title, which have demonstrated effectiveness in the delivery of employment and training services.

(m) Assistance to Native American entities

The Secretary of Labor may assist Native American entities which are eligible to receive assistance under section 872 of this title, in applying for financial assistance under the chapter.

(Pub. L. 93-203, title I, § 123, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1941.)

REFERENCES IN TEXT

The Energy Conservation and Production Act of 1976, referred to in subsec. (c)(1), probably means the Energy Conservation and Production Act, Pub. L. 94-385, Aug. 14, 1976, 90 Stat. 1125, as amended. Title IV of the Energy Conservation and Production Act, known as the Energy Conservation in Existing Buildings Act of 1976 is classified principally to subchapter III (§ 6851 et seq.) of chapter 81 of Title 42, The Public Health and Welfare. For complete classification of the Energy Conservation and Production Act and the Energy Conservation in Existing Buildings Act of 1976, see Short Title notes set out under section 6801 of Title 42 and Tables.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former sections 813 and 984 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 816, 915 of this title.

§ 826. Wages and allowances

Except as otherwise provided in this chapter, the following allowances and wages shall apply to all activities financed under this chapter:

(a)(1) The Secretary shall establish a basic hourly allowance for an individual receiving training for which no wages are payable at a rate which, when added to the amounts of unemployment compensation, if any, received by the trainee, shall be no less than the hourly minimum wage under section 206(a)(1) of this title or, if higher, under the State or local minimum wage law applicable to most employees in the State, and such basic allowances shall, in the case of an individual with dependents be increased by $5 a week for each dependent over 2 up to a maximum of 4 additional dependents.

(2) Pursuant to regulations of the Secretary, the prime sponsor may increase, decrease, prorate, or waive the basic allowance.

(3) Except for trainees receiving allowances under part A of subchapter IV of this chapter, a trainee receiving public assistance, or whose needs or income is taken into account in determining such public assistance payments to others, shall receive an incentive allowance for each hour spent in training not to exceed $30 per week. Such allowance shall be disregarded in determining the amount of public assistance payments under Federal or federally assisted public assistance programs.

(4) A trainee shall receive no allowances for hours during which the trainee fails to participate without good cause.

(b) A person in public service employment or similar employment shall be paid wages which shall not be less than the highest of (1) the minimum wage under section 206(a)(1) of this title (2) the minimum wage under the applicable State or local minimum wage law or (3) the prevailing rates of pay for persons employed in similar occupations by the same employer.

(c) Persons in on-the-job training shall be compensated by the employer at such rates, including periodic increases, as may be deemed reasonable under regulations prescribed by the Secretary, considering such factors as industry, geographical region, skill requirements and individual proficiency, but in no event less than the higher of the rate specified in section 206(a)(1) of this title or the applicable State or local minimum wage law.

(d) Persons in work experience shall be paid wages not less than the higher of the rate specified in section 206(a)(1) of this title or the applicable State or local minimum wage law.

(Pub. L. 93-203, title I, § 124, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1943.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 821 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 823, 824, 859, 912, 968 of this title, title 20 section 2415.

§ 827. Labor standards

All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this chapter, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 276c of title 40.

(Pub. L. 93-203, title I, § 125, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1944.)

REFERENCES IN TEXT

The Davis-Bacon Act, as amended, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

Section 276c of title 40, referred to in text, in the original read "section 2 of the Act of June 1, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c))" but probably meant "section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c)".

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 986 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 828. Powers of Secretary

(a) Authority to prescribe rules and regulations; assessment respecting adequacy of prime sponsor's proposed performance and placement goals

(1) The Secretary may, in accordance with chapter 5 of title 5, prescribe such rules and regulations, including performance standards, as deemed necessary in accordance with paragraph (2). Such rules and regulations may include adjustments authorized by section 4214 of title 42. For purposes of chapter 5 of title 5 any condition for receipt of financial assistance shall be deemed a rule to which section 553 applies. All such rules, regulations, guidelines, and other published interpretations or orders under this chapter shall be published in the Federal Register at least 30 days prior to their effective date. Copies of all such rules, regulations, guidelines, and other published interpretations or orders shall be transmitted to the appropriate committees of the Congress at the same time and shall contain with respect to each material provision of such rules, regulations, guidelines, and other published interpretations of orders, citations to the particular substantive section of law which is the basis therefor.

(2) The Secretary shall assess the adequacy of each prime sponsor's proposed performance and placement goals in accordance with performance standards which recognize that performance will vary with local conditions and the nature of employment barriers faced by the eligible population to be served. Performance standards shall provide appropriate recognition of differences associated with the degree of disadvantage or handicap of the eligible population, as well as such factors as—

(A) the local labor market conditions, including the levels of unemployment, and the current and projected labor market demands;

(B) the economic base of the community, including the growth or decline of industry within the community;

(C) the distribution of available employment opportunities by industry or occupation, for persons residing within the prime sponsor's area;

(D) the differing needs of the eligible population which will vary the costs for services and which will require setting different performance standards depending on the disadvantage, handicap, capabilities, and job readiness of the eligible population to be served; and

(E) such other factors as the Secretary deems appropriate.

(b) Authority to make grants, contracts, and agreements, establish procedures, and make payments with regard to funds made available under this chapter

The Secretary may make such grants, contracts, or agreements, establish such procedures and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this chapter, as deemed necessary to carry out the provisions of this chapter, including (without regard to the provisions of section 4774(d) of title 10) expenditures for construction, repairs, and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments.

(c) Delegation of authority within Department of Labor

The Secretary may delegate within the Department of Labor authority over the Office established pursuant to section 837 of this title in order to effectively carry out the purposes of such section.

(d) Reduction of compliance costs

The Secretary shall, to the extent feasible, reduce the costs of compliance imposed on prime sponsors by rules and regulations issued under this chapter including, but not limited to, the costs of applications, plan preparation, data collection, recordkeeping, report preparation, and other paperwork and regulatory cost burdens.

(e) Consolidation of reports

In order to reduce paperwork burdens, the Secretary is authorized to consolidate reports required by this chapter. Nothing in this subsection shall be construed to reduce or eliminate the requirements established by this chapter relating to the furnishing of information by the Secretary.

(f) Effectiveness of contracting authority

Notwithstanding any other provision of this chapter, no authority to enter into contracts under this chapter shall be effective except to such an extent or in such an amount as are provided in advance in appropriations Acts.

(Pub. L. 93-203, title I, § 126, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1944.)

REFERENCES IN TEXT

Section 4774(d) of title 10, referred to in subsec. (b), has been redesignated as entirety of section 4774 by Pub. L. 93-166, title V, § 509(c), Nov. 29, 1973, 87 Stat. 677.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 982 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 829 of this title.

§ 829. Reports

(a) Employment and occupational requirements, resources, use, and training

The Secretary shall make such reports and recommendations to the President as the Secretary deems appropriate pertaining to employment and occupational requirements, resources, use, and training, and the President shall transmit to the Congress a report on the same topics not later than March 1 of each year. The first such report submitted after October 27, 1978, shall include recommendations with respect to

necessary legislative or administrative changes required to simplify on-the-job training contracting procedures under this chapter.

(b) Use of social services, community colleges, etc., to carry out training programs supported by this chapter and related Acts

The Secretary and the Secretary of Health, Education, and Welfare shall report to the Congress on the extent to which social services, community colleges, area vocational and technical schools and other vocational education agencies and institutions, and vocational rehabilitation agencies are being utilized to carry out training programs supported in whole or in part under this chapter and related Acts; the extent to which administrative steps have been taken or are being taken to encourage the use of such facilities and institutions and agencies in the carrying out of the provisions of this chapter; and any further legislation that may be required to assure effective coordination and utilization of such facilities and agencies to the end that all federally supported employment and training, vocational education, and vocational rehabilitation programs can more effectively accomplish the objective of providing employment and training opportunities to all persons needing such employment and training.

(c) Evaluation of all programs and activities conducted under this chapter

The Secretary shall annually transmit to the Congress a detailed report which evaluates all programs and activities conducted under this chapter, including that information derived from evaluations provided for in section 881 of this title. The Secretary shall include specific data concerning the extent to which (1) participants in such activities subsequently secure and retain public or private employment, participate in training or employability development programs, and (2) significant segments of the population of unemployed persons are provided public service employment opportunities. No later than March 1, 1980, the Secretary shall report to Congress proposals for the integration and consolidation of the programs established by part A of subchapter IV and subchapter VII of this chapter with the program established by subchapter II of this chapter.

(d) Collection of information from annual reports and evaluations

In order to assist the Secretary in preparing the report required by this section, the Secretary shall require as a condition of financial assistance that annual reports and evaluations be submitted in accordance with regulations. The data derived from such reports shall be compiled on a State, regional, and national basis, and shall be included in the annual report to the Congress. Such reports shall include but not be limited to the following information:

(1) a detailed comparison of program performance with approved plan;

(2) participant characteristics (cross-tabulated);

(3) average cost per participant; and

(4) the types of outcomes that participants experience after the program.

(e) Recommendations for program modifications; action taken by Secretary to reduce costs of compliance

(1) In the annual report to Congress required in subsection (a) of this section, the Secretary shall make recommendations for program modification, including recommendations for the succeeding fiscal year, based upon such findings, and other legislative or administrative recommendations as the Secretary deems appropriate.

(2) In the annual report required in subsection (a) of this section, the Secretary shall include a description of the actions, if any, which the Secretary undertook during the fiscal year for which the report is made to reduce the costs of compliance imposed on the prime sponsors by rules or regulations issued under this chapter, as required under section 828(d) of this title.

(f) Administrative changes made or proposed to improve monitoring and auditing activities of the Department

In the annual report required under subsection (a) of this section, the Secretary shall report on the monitoring and auditing activities of the Department, on administrative changes made or proposed to improve such activities, and on actions taken under section 816 of this title, and shall make any necessary proposals for legislative action.

(g) Evaluations and pilot and demonstration projects conducted with funds made available under this chapter

The Secretary shall transmit to the Congress, as a part of the report required by subsection (a) of this section, a detailed report on the evaluations and pilot and demonstration projects conducted with funds made available under this chapter, including employment service/prime sponsor demonstration projects.

(h) Efforts to reduce paperwork and reports

The Secretary shall, in consultation with the Director of the Office of Management and Budget, submit a report once each year to the Congress on efforts being taken to reduce paperwork and reporting and to comply with the requirements of the Federal Reports Act [44 U.S.C. 3501 et seq.] and management directives of the Office of Management and Budget.

(i) Availability of reports, evaluation, etc., to congressional committees

Any evaluation report, or data, or information collected in preparation of such report submitted under this section or under any other provisions of this chapter, or any contract which is made or information pursuant to such contract which is paid for or made with appropriated funds shall be made available upon request, within four days to the chairman or ranking minority member of the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(j) Legislative changes designed to increase the representatives and independence of prime sponsor's planning council

The Secretary shall report to Congress, as part of the annual report for fiscal year 1979, his recommendations for legislative changes designed to increase the representatives and independence of the prime sponsor's planning councils, with special attention to the process for selecting council memberships.

(Pub. L. 93-203, title I, § 127, as added Pub. L. 95-524, §2, Oct. 27, 1978, 92 Stat. 1945, and amended S. Res. 30, Mar. 7, 1979.)

AMENDMENT OF SUBSECTION (b)

Pub. L. 96-88, title V, § 508(h)(2), title VI, § 601(a), Oct. 17, 1979, 93 Stat. 693, 696, provided that, effective 180 days after the first Secretary of Education takes office, or on any earlier date on or after Oct. 1, 1979, as the President prescribes and publishes in the Federal Register, subsec. (b) of this section is amended by substituting "the Secretary of Education, and the Secretary of Health and Human Services" for "and the Secretary of Health, Education, and Welfare".

REFERENCES IN TEXT

The Federal Reports Act, referred to in subsec. (h), probably means chapter 35 (§ 3501 et seq.) of Title 44, Public Printing and Documents.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former sections 849 and 985 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

CHANGE OF NAME

The name of the Committee on Human Resources of the Senate was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See, also, Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.

REPORT RESPECTING IMPROVEMENTS TO WAGNER-PEYSER ACT; SUBMISSION TO CONGRESS

Section 5(a) of Pub. L. 95-524 required the Secretary of Labor, no later than Feb. 1, 1979, after consultation with appropriate state and local officials and other interested parties, to submit to Congress a report containing recommendations and suggested legislation with respect to any necessary improvements in the Wagner-Peyser Act, section 49 et seq. of this title, including such legislation as may be necessary to assure coordination between such Act and this chapter.

REPORT ON ABILITY OF TARGETED STRUCTURAL EMPLOYMENT AND TRAINING PROGRAMS TO ACHIEVE GOALS; ANALYSIS OF INCENTIVE GRANTS AND OTHER ASSISTANCE; DEVELOPMENT OF INFORMATION RESPECTING INDIVIDUALS IN JURISDICTION OF PRIME SPONSOR

Section 5(c) and (d) of Pub. L. 95-524 provided that:

"(c)(1) On or before March 1, 1979, the Joint Economic Committee shall report to Congress on the ability of targeted structural employment and training programs to achieve and sustain (A) a decrease in unemployment rates among those segments of the labor force having special difficulties in obtaining employment and (B) a decrease in the national unemployment rate without exacerbating inflation and shall make such recommendations, as the Committee deems appropriate, for improving the ability of targeted structural employment and training programs to achieve such goals. The Joint Economic Committee shall, to the extent feasible, consult with appropriate Federal agencies, the Human Resources [now Labor and Human Resources] Committee of the Senate and the Committee on Education and Labor of the House of Representatives, the Congressional Budget Office, the National Commission for Employment and Training Policy, the Board of Governors of the Federal Reserve, and other appropriate individuals, both public and private, and obtain their assistance in preparing the report.

"(2) The Joint Economic Committee, as part of the report to the Congress required under paragraph (1), is requested to include, with recommendations, if any, an analysis of the subject of incentive grants, or other assistance permissible under this Act [see Short Title of 1978 Amendment note set out under section 801 of this title], to private employers in reducing unemployment rates among individuals eligible for assistance under this Act, through national priority projects, including, but not limited to better housing, health care, agriculture, and transportation.

"(d) The Secretary shall develop information relating to the number of individuals who have attained 16 years of age and who are members of a family with an income which is equal to or less than 70 percent, 85 percent, and 100 percent of the lower living standard income level for the jurisdiction of each prime sponsor. The Secretary shall prepare and submit as part of the annual report submitted on March 1, 1980, under section 127(a) [subsec. (a) of this section] to the President and to the Congress a report on the information required by this subsection."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 834, 835, 871, 881, 885 of this title; title 15 section 3151.

§ 829a. Development of methods to ascertain energy development and conservation employment impact data; presentation of best available data to Secretary of Energy, Secretary of Housing and Urban Development, Director of the Office of Management and Budget, and committees of Congress

The Secretary shall develop methods to ascertain, and shall ascertain annually, energy development and conservation employment impact data by type and scale of energy technologies used. The Secretary shall present the best available data to the Secretary of Energy, the Secretary of Housing and Urban Development, and the Director of the Office of Management and Budget as part of the budgetary process and to the appropriate Committees of Congress annually.

(Pub. L. 95-524, § 5(b), Oct. 27, 1978, 92 Stat. 2019.)

CODIFICATION

Section was enacted as a part of the Comprehensive Employment and Training Act Amendments of 1978, and not as a part of the Comprehensive Employment and Training Act which comprises this chapter.

§ 830. Services and property

The Secretary is authorized, in carrying out functions and responsibilities under this chapter, to accept, purchase, or lease in the name of the Department, and employ or dispose of in furtherance of the purposes of this chapter, or any subchapter thereof, any money or proper-

ty, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise; and to accept voluntary and uncompensated services, notwithstanding the provisions of section 665(b) of title 31.

(Pub. L. 93-203, title I, § 128, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1947.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 987 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 831. Utilization of services and facilities

(a) In addition to such other authority as the Secretary may have, the Secretary is authorized, in the performance of functions under this chapter, and to the extent permitted by law, to utilize the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized to accept and utilize the services and facilities of the agencies of any State or political subdivision of a State, with its consent.

(b) The Secretary shall carry out responsibilities under this chapter through the utilization, to the extent appropriate, of all resources for skill development available in industry, labor, public and private educational and training institutions, vocational rehabilitation agencies, and other State, Federal, and local agencies and other appropriate public and private organizations and facilities, with their consent.

(Pub. L. 93-203, title I, § 129, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1947.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 988 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 832. Interstate agreements

In the event that compliance with provisions of this chapter would be enhanced by cooperative agreements between States, the consent of Congress is hereby given to such States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

(Pub. L. 93-203, title I, § 130, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1948.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 989 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 833. Political activities prohibited

(a) The Secretary shall not provide financial assistance for any program under this chapter which involves political activities.

(b) Neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent, engaged in the conduct of political activities in contravention of chapter 15 of title 5.

(Pub. L. 93-203, title I, § 131, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1948.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 990 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 834. Discrimination

(a) General prohibition

No person in the United States shall on the ground of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of or in connection with any program or activity funded in whole or in part with funds made available under this chapter.

(b) Enforcement powers of Secretary

Whenever the Secretary determines that a recipient of financial assistance has failed to comply with subsection (a) of this section or an applicable regulation, the Secretary, in addition to exercising the powers and functions provided in section 816 of this title, is authorized (1) to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) to exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); or (3) to take such other action as may be provided by law. In any case in which the Secretary receives a complaint from any interested person or organization under section 816 of this title with respect to an alleged violation of subsection (a) of this section, the Secretary shall make the determination referred to in the preceding sentence no later than 120 days after receiving such complaint.

(c) Civil action by Attorney General; jurisdiction; relief

When a matter is referred to the Attorney General pursuant to subsection (b) of this section, or whenever the Attorney General has reason to believe that a recipient is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(d) Additional enforcement power of Secretary under section 2000d-1 of title 42

In addition to other remedies, the Secretary is authorized to enforce the provisions of subsection (a) of this section dealing with discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief, in accordance with section 602 of the Civil Rights Act of 1964 [42 U.S.C. 2000d-1]. Section 603 of such Act [42 U.S.C. 2000d-2] shall apply with respect to any action taken by the Secretary to enforce such provisions of such subsection. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any program or activity receiving assistance under this chapter.

(e) Citizenship of participant

No participant under this chapter shall be discriminated against by reason of citizenship. Participation shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, and lawfully admitted refugees and parolees.

(f) Review of adequacy of outreach, training, etc., respecting handicapped individuals; inclusion in annual report

(1) The Secretary shall review, on a periodic basis, the adequacy of outreach, training, placement, and advancement practices with respect to handicapped individuals by each prime sponsor pursuant to section 813(b)(15) of this title and shall insure that the special needs of such individuals are being met.

(2) The Secretary shall include in each annual report pursuant to section 829(a) of this title a complete evaluation of the conduct of and achievements in outreach, training, placement, and advancement practices with respect to handicapped individuals by prime sponsors pursuant to section 813(b)(15) of this title, including a comparison of such practices and achievements with the preceding year.

(Pub. L. 93–203, title I, § 132, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1948.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (b), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 991 of this title prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 816 of this title.

§ 835. Records, audits, and investigations

(a) In order to assure that funds provided under this chapter are used in accordance with its provisions, the following provisions shall apply.

(1) Every recipient of funds under this chapter shall make, keep, and preserve such records as the Secretary shall require with regard to each employee and each participant. Such records, including periodic reports, audits, and examinations, shall be preserved for such time as the Secretary establishes and shall be made available to the Secretary at such time and in such form, including periodic reports, audits, and examinations as the Secretary may require by regulation or order.

(2) The Secretary may investigate such facts, conditions, practices, or other matters the Secretary deems necessary to determine whether any recipient of funds or any official of such recipient has violated any provision of this chapter or of the regulations. Such investigations may include, but need not be limited to, inspecting all records of the recipient (including making certified copies thereof), questioning employees, and entering any premises or onto any site in which any part of the recipient's program is conducted.

(3) For the purpose of any hearing or investigation authorized under this chapter, the provisions of section 49 of title 15 (relating to the attendance of witnesses and the production of books, papers, and documents) are made applicable to the Secretary.

(b) The Secretary shall complete all audits of recipients of funds which he deems necessary in a timely fashion following the end of the fiscal year for which the audits are made. In the annual report required under section 829(a) of this title, the Secretary shall include a statement of the average delay between the end of each fiscal year and the audits of prime sponsors for such year, the actions, if any, taken by the Secretary to reduce the delay, and the additional funds and personnel the Secretary would need in order to carry out all audits within the 24-month period following the end of the fiscal year for which the audits are made.

(Pub. L. 93–203, title I, § 133, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1949.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 992 of this title prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 816 of this title.

§ 836. Bonding

Every officer, director, agent, or employee of a recipient of funds under this chapter who handles funds or other financial assistance received under the chapter shall be bonded to provide protection against loss by reason of fraud or dishonesty on such person's part directly or through conspiracy with others. The Secretary shall establish the amount and other bonding requirements by regulation.

(Pub. L. 93–203, title I, § 134, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1949.)

§ 837. Office of Management Assistance; establishment; assignment of accountants, management specialists, and other professionals; reimbursement

The Secretary shall establish, in the office of the Secretary, an Office of Management Assistance and shall assign to such office such especially qualified accountants, management specialists, and other professionals as may be necessary and available to provide management assistance to any prime sponsor—

(1) seeking the service of such office on its own initiative to assist it in overcoming problems in the management, operation, or supervision of any program or project under this chapter; and

(2) identified, pursuant to a complaint investigation, internal audit, or audit or investigation as not being in compliance with any important requirement of this chapter, of

regulations issued thereunder, or of the comprehensive employment and training plan.

Services under this section may be provided on a reimbursable or non-reimbursable basis, as determined by the Secretary, and shall be allocated in a manner to assure equitable but effective distribution of such services. The Secretary shall periodically publish any proposals for corrective action made by the Office which may be useful to other prime sponsors.

(Pub. L. 93-203, title I, § 135, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1950.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 828 of this title.

SUBCHAPTER II—COMPREHENSIVE EMPLOYMENT AND TRAINING SERVICES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 802, 813, 822, 825, 829, 878, 884, 896, 899, 907, 912, 941, 970, 982, 983, 985 of this title.

PART A—FINANCIAL ASSISTANCE PROVISIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 802, 822, 842, 847 of this title.

§ 841. Congressional statement of purpose

It is the purpose of this subchapter to establish programs to provide comprehensive employment and training services throughout the Nation in order to ease barriers to labor force participation encountered by economically disadvantaged persons, to enable such persons to secure and retain employment at their maximum capacity, and to enhance the potential for individuals to increase their earned income. Such programs shall include the development and creation of training, upgrading, retraining, education, and other services needed to enable individuals to secure and retain employment at their maximum capacities so as to increase their earned incomes.

(Pub. L. 93-203, title II, § 201, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1950.)

PRIOR PROVISIONS

A prior section 841, Pub. L. 93-203, title II, § 201, Dec. 28, 1973, 87 Stat. 850; Pub. L. 93-567, title I, § 106(a), Dec. 31, 1974, 88 Stat. 1849, which provided for a congressional statement of purpose with respect to a public service employment program was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

Provisions similar to those comprising this section were contained in former section 811 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 842. Allocation of funds

(a) Basis for percentage of amount allocated

(1)(A) Eighty-five percent of the amount available for parts A, B, and C of this subchapter in fiscal year 1979 shall be allocated as follows:

(i) 50 percent of the amount allocated under this paragraph shall be allocated to each State on the basis of the sums received by the State under title I of the Comprehensive Employment and Training Act of 1973 for fiscal year 1978 compared to the sums received by all States under such title in that year;

(ii) 37½ percent of the amount allocated under this paragraph shall be allocated to each State on the basis of the relative number of unemployed persons within the State as compared to the number in all States;

(iii) 12½ percent of the amount allocated under this paragraph shall be allocated to each State on the basis of the relative number of adults in families with an annual income below the low-income level within the State compared to the total number in all States; and

(iv) Not less than $2,000,000 shall be allocated among Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Marianas in accordance with their respective needs.

(B) The sum allocated to each State shall be allocated by the Secretary among prime sponsors within the State on an equitable basis based upon the factors set forth in subparagraph (A).

(2)(A) Eighty-five percent of the amount available for parts A, B, and C of this subchapter in fiscal years 1980, 1981, and 1982 shall be allocated as follows:

(i) two-thirds of such amount shall be allocated in accordance with the provisions of subparagraph (B) of this paragraph; and

(ii) one-third of such amount shall be allocated in accordance with the provisions of subparagraph (C) of this paragraph.

(B) The amount allocated under this subparagraph shall be allocated as follows:

(i) 50 per centum of the amount allocated under this subparagraph shall be allocated on the basis of the amount allocated to the prime sponsor under this subparagraph (or under paragraph (1)) in the fiscal year prior to the year for which the determination is made compared to the amount so allocated to all prime sponsors in that year;

(ii) 37½ per centum of the amount allocated under this subparagraph shall be allocated on the basis of the relative number of unemployed persons within jurisdiction of the prime sponsor as compared to such numbers in all such jurisdictions;

(iii) 12½ per centum of the amount allocated under this subparagraph shall be allocated on the basis of the relative number of adults in families with an annual income below the low-income level within the jurisdiction of the prime sponsor compared to such total numbers in all such jurisdictions; and

(iv) not less than $2,000,000 shall be allocated among Guam, the Virgin Islands, the Northern Marianas, American Samoa, and the Trust Territory of the Pacific Islands, in accordance with their respective needs.

(C) The amount allocated under this subparagraph shall be allocated among prime sponsors in accordance with the number of unemployed

persons residing in areas of substantial unemployment within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all such areas.

(b) Grants for supplemental vocational education assistance

Six percent of the funds available for parts A, B, and C of this subchapter shall be available only for grants under section 844 of this title for supplemental vocational education assistance.

(c) Allocation for costs of State employment and training council

One percent of the amount available for parts A, B, and C of this subchapter shall be available to the Secretary to be allocated in the same manner as provided under subsection (a) of this section to States for the costs of the State employment and training council incurred in carrying out the provisions of section 820 of this title, except that no State shall receive an allocation of less than $50,000. If any State does not need the amount allocated under this subsection for any fiscal year, that amount shall be available for the Governor's coordination and special services under section 815 of this title.

(d) Allocation for encouraging coordination between prime sponsors and educational agencies, etc., and for services for eligible participants delivered by employment and training councils

One percent of the amounts available for this subchapter shall be available to the Governor of each State in the same proportion as that State's allocation under subsection (a) of this section for encouraging coordination and establishing linkages between prime sponsors and appropriate educational agencies and institutions, and institutions providing training programs which are approved by the Secretary, and for services for eligible participants delivered jointly by employment and training agencies and appropriate educational agencies and institutions.

(e) Allocation for Governor's coordination and special services under section 815 of this title

Four percent of the amounts available for parts A, B, and C of this subchapter shall be available to each Governor in the same proportion as that State's allocation under subsection (a) of this section, for the Governor's coordination and special services under section 815 of this title, and, when deemed necessary by the Governor, for additional support of State employment and training councils.

(f) Allocation of remaining funds

(1) The remainder of the funds shall be available in the Secretary's discretion to be distributed among prime sponsors (or where a prime sponsor's comprehensive employment and training plan has not been approved, an area served by the Secretary under the authority in section 812 of this title) in accordance with the provisions of paragraph (2).

(2)(A) The Secretary shall first utilize such funds to assure that each prime sponsor is provided with (i) an amount for fiscal year 1979 equal to 90 percent of the sum of the funds available for expenditure during fiscal year 1978 by such prime sponsor under section 813(a)(2), (f), and (g) of this title (as in effect prior to October 27, 1978); (ii) an amount for fiscal year 1980, equal to 90 percent of the sum of the funds available for expenditure during fiscal year 1979 by prime sponsors under subsection (a)(1) of this section; or (iii) an amount for any fiscal year beginning on or after October 1, 1980, equal to 90 percent of the sum of the funds available for expenditure during the preceding fiscal year by such prime sponsor under subsection (a)(2) of this section.

(B) The Secretary shall next use such funds (i) to provide continued support for concentrated employment program grantees serving rural areas having high levels of unemployment, and (ii) to allocate among the prime sponsors serving areas within those standard metropolitan statistical areas and central cities for which current population surveys were used to determine annual unemployment data prior to January 1, 1978, in proportion to the extent to which such prime sponsors allocations under this subsection are reduced as a result of termination of the use of such surveys, but in no event shall such a prime sponsor receive an amount in excess of the amount of such reduction. The allocations required under clause (ii) of this subparagraph shall not be made for any fiscal year beginning on or after October 1, 1980, or until such time as the Secretary determines that current population survey data is available for use on a satisfactory basis for such areas and the remaining area of each State, whichever occurs first.

(C) The Secretary shall next use such funds as needed to provide continued funding of programs of demonstrated effectiveness, and to encourage, after consultation with and receiving recommendations from the Governor of the appropriate State, voluntary consortia (formed under section 811(a)(3) of this title) where the Secretary determines, pursuant to regulations, that such consortia demonstrate advantages in delivering employment and training services to substantial portions of functioning labor market areas.

(g) Allocation for support of prime sponsor planning councils

Prime sponsors are authorized to use funds allocated under this section to support prime sponsor planning councils.

(Pub. L. 93-203, title II, § 202, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1950.)

REFERENCES IN TEXT

The Comprehensive Employment and Training Act of 1973, referred to in subsec. (a)(1)(A)(i), is Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, as amended, which was classified principally to this chapter prior to its general revision by Pub. L. 95-524. Title I of the Comprehensive Employment and Training Act of 1973 was classified generally to subchapter I (§ 811 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

PRIOR PROVISIONS

A prior section 842, Pub. L. 93-203, title II, § 202, Dec. 28, 1973, 87 Stat. 850; Pub. L. 93-567, title I, § 106(b), Dec. 31, 1974, 88 Stat. 1849, Pub. L. 94-444,

§ 14(a), Oct. 1, 1976, 90 Stat. 1487, which related to an allocation of funds with regard to the public service employment programs was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

Provisions similar to those comprising this section were contained in former section 813 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

USE OF FUNDS; WAIVER; EFFECTIVE DATE OF PROVISIONS

Pub. L. 94-444, § 4(a), Oct. 1, 1976, 90 Stat. 1477, provided that:

"(1) With respect to appropriations made by the Emergency Supplemental Appropriations Act of 1976 (Public Law 94-266, enacted April 15, 1976) for the purpose of carrying out activities authorized by title II of the Comprehensive Employment and Training Act of 1973 [former subchapter II of this chapter]—

"(A) notwithstanding any other provision of law, funds made available under section 202(b) of the Comprehensive Employment and Training Act of 1973 [former section 842(e) of this title] may be used in any areas qualifying under title VI of such Act [former subchapter VI of this chapter] to provide a continuation of public service employment activities under both title II and title VI of such Act; and

"(B) in order to enable persons employed in public service jobs financially assisted under title VI of such Act to be transferred to jobs financially assisted under title II of such Act, the Secretary of Labor is authorized to waive the provision of section 205(a) of such Act [former section 845(a) of this title] requiring a thirty-day period of unemployment.

"(2) The provisions of paragraph (1) of this subsection shall be deemed to have taken effect on the date of enactment of the Emergency Supplemental Appropriations Act of 1976 [Apr. 15, 1976]. Persons transferred after such date from jobs financially assisted under title VI of the Comprehensive Employment and Training Act of 1973 [former subchapter VI of this chapter] to jobs financially assisted under title II of such Act [former subchapter II of this chapter], using funds made available under the Emergency Supplemental Appropriations Act of 1976, shall after the date of enactment of this Act [Oct. 1, 1976] be considered to be public service jobholders financially assisted under such title VI."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 820, 843, 844, 872, 873, 982 of this title.

§ 843. Conditions for receipt of financial assistance

(a) Submission of comprehensive employment and training plan

The Secretary shall not provide financial assistance for any fiscal year to a prime sponsor unless the prime sponsor submits a satisfactory comprehensive employment and training plan pursuant to section 813 of this title.

(b) Allocation restriction

Not more than 6.5 per centum of each prime sponsor's allocation under section 842(a) of this title may be used for programs and activities under part C of this subchapter.

(c) Assurances respecting agreements with State or local educational agencies or postsecondary educational institutions for conduct of employment and training programs

(1) The Secretary shall not provide financial assistance under this subchapter for any fiscal year to a prime sponsor unless the prime sponsor provides assurances that (consistent with needs identified in the prime sponsor's plan submitted under section 813(a) of this title) it shall make agreements with State or local educational agencies or postsecondary educational institutions for the conduct of employment and training programs, which programs may consist of—

(A) vocational training designed to prepare individuals for employment;

(B) instruction in basic cognitive skills necessary to obtain employment or pursue further education or training designed to prepare individuals for employment;

(C) employment of persons in schools controlled by such agencies or in postsecondary institutions; and

(D) such other employment and training activities as may be consistent with the purposes and provisions of this subchapter.

(2) Each such agreement entered into under this subsection shall describe in detail the employment opportunities and appropriate educational, training, or other services to be provided, and shall contain provisions to assure that funds utilized pursuant to the agreement will not supplant State or local funds expended for the same purpose.

(3) In the event a prime sponsor is unable to reach agreements with the appropriate educational agencies or institutions, or in the event such agencies or institutions are dissatisfied with the utilization of their facilities proposed by the prime sponsor, either may request the Secretary to review such arrangements and the Secretary, after affording an opportunity for a hearing and taking into consideration such factors as he considers relevant, may take such action as he deems appropriate within 90 days after receiving such a request.

(Pub. L. 93-203, title II, § 203, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1953.)

PRIOR PROVISIONS

A prior section 843, Pub. L. 93-203, title II, § 203, Dec. 28, 1973, 87 Stat. 850; Pub. L. 94-444, § 3(a)(1), Oct. 1, 1976, 90 Stat. 1476, which related to the availability of financial assistance was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

Provisions similar to those comprising this section were contained in former section 815 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 813, 912 of this title.

§ 844. Supplemental vocational education assistance

(a) Grants to Governors; consultation with designated representatives of State agencies and councils

(1) From the funds available to him for this section, the Secretary shall make grants to Governors to provide financial assistance, through State vocational education boards, to provide needed vocational education services in areas served by prime sponsors, in accordance with an agreement between the State vocational education board and the prime sponsor.

(2) The State vocational education board, prior to making any agreement with a prime

sponsor as provided in paragraph (1), shall consult with and obtain the advice and comment of the designated representatives of the State agencies and councils which are required to be involved in the formulation of the five-year State plan for vocational education pursuant to section 2307(a)(1) of title 20.

(b) Allocation of funds

All of the sums available to carry out this section shall be allocated among the States in the manner provided for allocating funds under section 842(a) of this title.

(c) Use of funds

(1) Not less than 85 percent of the funds available under this section shall be used only for providing vocational education and services to participants in programs under this chapter.

(2) The remainder of the funds available under this section may be used—

(A) to coordinate programs under this chapter with existing vocational education programs;

(B) to coordinate the utilization of funds under this chapter and the Vocational Education Act of 1963 [20 U.S.C. 2301 et seq.] to enhance economic growth and development in the State;

(C) to develop linkages between vocational education, education, and training programs under this chapter and private sector employers;

(D) to provide technical assistance to vocational education institutions and local education agencies to aid them in making cooperative arrangements with appropriate prime sponsors;

(E) to provide information, curriculum materials, and technical assistance in curriculum development and staff developments to prime sponsors.

(Pub. L. 93-203, title II, § 204, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1953.)

REFERENCES IN TEXT

The Vocational Education Act of 1963, referred to in subsec. (c)(2)(B), is Pub. L. 88-210, title I, Dec. 18, 1963, 77 Stat. 403, which was classified to chapter 32 (§ 1241 et seq.) of Title 20, Education, and was completely amended and reorganized by the Education Amendments of 1976, Pub. L. 94-482, title II, § 202(a), Oct. 21, 1976, 90 Stat. 2169, and is now classified to chapter 44 (§ 2301 et seq.) of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables. For additional details, see also the Codification note preceding section 1241 of Title 20.

PRIOR PROVISIONS

A prior section 844, Pub. L. 93-203, title II, § 204, Dec. 28, 1973, 87 Stat. 850; Pub. L. 93-567, title I, § 106 (c), (d), Dec. 31, 1974, 88 Stat. 1849, which related to eligible applicants was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

Provisions similar to those comprising this section were contained in former section 822 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 842 of this title.

§ 845. Participant assessment

(a) In order to assess the appropriate mixture of training or employment services, or both, needed by each individual receiving assistance under this subchapter, the prime sponsor shall assist each such individual to establish a personalized employability plan. In establishing such plan, prime sponsors shall take into consideration an individual's skills, interests, and career objectives, subject to the availability of services, and shall consider the barriers to employment or advancement faced by that individual in order to assist that individual to attain unsubsidized employment.

(b) An assessment of appropriate training and supportive services shall be made at the time of entrance to a program assisted in part or in whole by this subchapter, which shall be reviewed periodically throughout the duration of the individual's participation in a program funded under this subchapter. Such assessment shall be included in each individual's employability plan.

(Pub. L. 93-203, title II, § 205, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1954.)

PRIOR PROVISIONS

A prior section 845, Pub. L. 93-203, title II, § 205, Dec. 28, 1973, 87 Stat. 851; Pub. L. 93-567, title I, § 106 (e), (f), Dec. 31, 1974, 88 Stat. 1849; Pub. L. 94-444, § 7, Oct. 1, 1976, 90 Stat. 1482; Pub. L. 95-93, title III, § 306(a), Aug. 5, 1977, 91 Stat. 651, which related to applications for financial assistance was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

PART B—SERVICES FOR THE ECONOMICALLY DISADVANTAGED

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 802, 822, 842, 847 of this title.

§ 846. Description of program

Comprehensive employment and training services may include, but need not be limited to, the following:

(1) job search assistance, including orientation, counseling, and referral to appropriate employment and training opportunities;

(2) outreach to make persons aware of the availability of, and to encourage them to use, employment and training services;

(3) supported work programs or activities;

(4) education and institutional skill training to prepare persons to enter the labor market, or to qualify for more productive job opportunities and increased earnings;

(5) on-the-job training and training leading to self-employment in small business;

(6) work experience programs providing employment opportunities for eligible individuals unable to attain employment with public or private sector employers, which shall be designed to increase the employability of the participants through development of work habits, occupational skills, and linkages with other training programs, or to provide temporary employment to individuals who are seeking suitable placement in classroom training, on-the-job training, public service employ-

ment, or other such employment and training opportunities;

(7) payments or other inducements to public or private employers to expand job opportunities, in accordance with section 823(*l*) of this title;

(8) services to individuals to enable them to retain employment;

(9) supportive services, including, but not limited to, necessary health care, child care, residential support, or assistance in securing bonds, and transportation, needed to enable individuals to participate in employment and training;

(10) development of labor market information, and activities such as job restructuring, to make the program more responsive to the needs of the eligible population;

(11) training, employment opportunities, and related services conducted by community based organizations;

(12) part-time, flexitime, and other alternative working arrangements for individuals who are unable because of age, handicap, or other factors to work full-time;

(13) payment of allowances to persons in training for which they receive no remuneration, and payment of such allowances for transportation, subsistence, or other expenses incurred in training or employment; and

(14) any programs or activities authorized by part A of subchapter III, subchapter IV, and subchapter VII of this chapter.

(Pub. L. 93–203, title II, § 211, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1954.)

PRIOR PROVISIONS

A prior section 846, Pub. L. 93–203, title II, § 206, Dec. 28, 1973, 87 Stat. 854, which related to the approval of applications for financial assistance, was omitted from the Code in the general revision of Pub. L. 93–203 by Pub. L. 95–524.

A prior section 211 of Pub. L. 93–203, title II, Dec. 28, 1973, 87 Stat. 857; Pub. L. 93–567, title I, § 103, Dec. 31, 1974, 88 Stat. 1847, which related to a determination of areas of substantial unemployment which was formerly classified to section 851 of this title, was omitted from the Code in the general revision of Pub. L. 93–203 by Pub. L. 95–524.

Provisions similar to those comprising this section were contained in former section 811 of this title prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 856 of this title.

§ 847. Limitations on use of funds

(a) No prime sponsor may use funds allocated for parts A, B, and C for public service employment.

(b) Work experience programs conducted under this part, except for in-school youth, shall—

(1) be designed to lead to unsubsidized employment, and

(2) be subject to the limitations on duration specified in section 823(c)(2) and section 823(i) of this title,

unless the prime sponsor's plan as approved by the Secretary establishes that the lack of alternative job opportunities in the area makes such conditions and limitations impractical.

(Pub. L. 93–203, title II, § 212, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1955.)

PRIOR PROVISIONS

A prior section 847, Pub. L. 93–203, title II, § 207, Dec. 28, 1973, 87 Stat. 854, relating to special responsibilities of the Secretary, was omitted from the Code in the general revision of Pub. L. 93–203 by Pub. L. 95–524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 823 of this title.

§ 848. Eligibility for participation

A person shall be eligible to participate in a program receiving financial assistance under this part only if such person is economically disadvantaged and either unemployed, underemployed, or in school.

(Pub. L. 93–203, title II, § 213, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1955.)

PRIOR PROVISIONS

A prior section 848, Pub. L. 93–203, title II, § 208, Dec. 28, 1973, 87 Stat. 855, relating to special conditions for providing financial assistance for public service employment programs, was omitted from the Code in the general revision of Pub. L. 93–203 by Pub. L. 95–524. See section 824 of this title.

§ 849. Services for youth

(a) Services for youth under this part shall be designed to assist eligible participants in overcoming the particular barriers to employment experienced by youth, including lack of basic educational or vocational skills, insufficient preparation for the personal adaptations necessary for labor force participation, inability to find or successfully apply for employment, financial barriers to labor force participation, and lack of appropriate job opportunities.

(b) The Secretary shall insure that each prime sponsor's plan for serving eligible youth under this part includes—

(1) provisions for coordinating activities under this part with activities under part A of subchapter IV of this chapter;

(2) assurances that, to the maximum extent feasible, the activities enumerated in section 908 of this title, except for public service employment, will be utilized to serve youth under this part; and

(3) procedures for review of such plans by the youth council established under section 912(b) of this title.

(Pub. L. 93–203, title II, § 214, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1955.)

PRIOR PROVISIONS

A prior section 849, Pub. L. 93–203, title II, § 209, Dec. 28, 1973, 87 Stat. 856; Pub. L. 93–567, title I, § 105, Dec. 31, 1974, 88 Stat. 1848, which provided for a special report to the Congress with respect to activities concerning the public service employment program, was omitted from the Code in the general revision of this Pub. L. 93–203 by Pub. L. 95–524. See section 829 of this title.

§ 850. Services for older workers

(a) Services for older workers under this part shall be designed to assist eligible participants

in overcoming the particular barriers to employment experienced by older workers, including skills that are obsolete or no longer needed in the community, changing physical characteristics associated with aging, employer reluctance to hire older workers, financial barriers to labor force participation, and lack of appropriate job opportunities.

(b) The Secretary shall insure that each prime sponsor's plan for serving eligible older workers under this part includes provisions for utilizing activities including activities described in section 878 of this title and coordinating services for older workers under this part with programs and services provided by senior centers, area agencies on aging, and State agencies on aging (as designated under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.]).

(Pub. L. 93-203, title II, § 215, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1956.)

REFERENCES IN TEXT

The Older Americans Act of 1965, referred to in subsec. (b), is Pub. L. 89-73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§ 3001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 850, Pub. L. 93-203, title II, § 210, Dec. 28, 1973, 87 Stat. 857; Pub. L. 93-567, title I, § 106(g), Dec. 31, 1974, 88 Stat. 1849, which related to utilization of funds for public service employment programs, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 851. Services for public assistance recipients

(a) Services for public assistance recipients under this part shall be designed to assist eligible participants in overcoming the particular barriers to employment experienced by such recipients, including lack of basic educational or vocational skills, insufficient preparation for the personal adaptations necessary for labor force participation, inability to find or successfully apply for employment, inability to obtain transportation to employment opportunities, medical problems, inability to obtain satisfactory child care, and lack of appropriate job opportunities.

(b) The Secretary shall insure that each prime sponsor's plan for serving eligible public assistance recipients under this part includes provisions for coordinating services assisted under this part with other programs assisted under this chapter; and with services provided by State and local public assistance agencies.

(Pub. L. 93-203, title II, § 216, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1956.)

PRIOR PROVISIONS

A prior section 851, Pub. L. 93-203, title II, § 211, Dec. 28, 1973, 87 Stat. 857; Pub. L. 93-567, title I, § 103, Dec. 31, 1974, 88 Stat. 1847, which related to a determination of areas of substantial unemployment, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

PART C—UPGRADING AND RETRAINING

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 802, 822, 842, 843, 847 of this title.

§ 852. Occupational upgrading and retraining programs

(a) Financial assistance to public and private employers for program costs

Pursuant to regulations of the Secretary, prime sponsors may provide financial assistance to public and private employers for the costs associated with occupational upgrading programs, including supportive services, through agreements with public and private employers for the employees of such employers. Individuals eligible for such programs shall be individuals operating at less than their full skill potential, primarily those in entry level positions or positions with little normal advancement opportunities. In any program receiving financial assistance under this section—

(1) the positions for which employees are being upgraded shall be positions not regularly available to entry level employees, and for which adequately trained persons are not available;

(2) the selection of employees for upgrading shall be based upon potential and the lack of availability for advancement in a normal promotional line;

(3) the education and skill training content of the upgrading program shall provide employees with a reasonable progression resulting in qualifications for a recognized position of greater skill, responsibility, remuneration, or career advancement in the service of that employer;

(4) the training period for upgrading shall be reasonable and consistent with periods customarily required for comparable training;

(5) adequate personnel, attendance and progress records shall be maintained;

(6) the program shall be designed, to the extent feasible, so that additional vacancies are created for new entry level employees;

(7) compensation shall be paid by the employer at rates, including periodic increases, as the Secretary deems reasonable, considering such factors as industry practice, skill requirements, individual proficiency, and the geographical region, but not at rates less than that received before upgrading; and

(8) successful completion shall be expected to result in employment with the employer in the occupation for which the employee has been upgraded and at not less than prevailing wages.

(b) Prime sponsor to conduct retraining programs directly or through agreements with public and private employers or other educational agencies

(1) Pursuant to regulations of the Secretary, prime sponsors may conduct retraining programs, including supportive services, directly or through agreements with public and private employers or other organizations or agencies.

(2) Entry into retraining programs shall be only for individuals who have previously received a bona fide notice of impending layoff,

and who are determined, pursuant to regulations of the Secretary, to have little opportunity to be reemployed in the same or equivalent occupation or skill level within the labor market area.

(3) Retraining programs shall meet such standards as the Secretary shall establish by regulation.

(c) Affect of collective bargaining agreements upon agreement with employers

If upgrading or retraining is for or from jobs covered by collective bargaining agreements, agreements with employers to carry out such programs shall have the concurrence of labor organizations representing employees in such jobs.

(Pub. L. 93-203, title II, § 221, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1956.)

PART D—TRANSITIONAL EMPLOYMENT OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 822 of this title.

§ 853. Congressional statement of purpose

It is the purpose of this part to provide economically disadvantaged persons who are unemployed with transitional employment in jobs providing needed public services, and related training and services to enable such persons to move into employment or training not supported under this chapter.

(Pub. L. 93-203, title II, § 231, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1957.)

§ 854. Financial assistance

(a) The Secretary shall provide financial assistance to prime sponsors for transitional public service employment for economically disadvantaged persons who are unemployed. Such employment—

(1) shall be entry level;

(2) shall be combined with training and supportive services if such training and services are reasonably available in the area; and

(3) shall be designed to enable participants to move into unsubsidized employment.

(b)(1) Not more than 10 percent of the funds allocated to a prime sponsor in accordance with the provisions of this part may be used for administrative and other allowable costs (such as supplies, materials, and equipment) incurred by the prime sponsor, program agents, project applicants, or subgrantees or contractors, in accordance with such regulations as the Secretary may prescribe.

(2) Not less than—

(A) 10 percent of the funds so allocated for fiscal year 1979;

(B) 15 percent of the funds so allocated for fiscal year 1980;

(C) 20 percent of the funds so allocated for fiscal year 1981;

(D) 22 percent of the funds so allocated for fiscal year 1982;

shall be used only for training.

(3) The remainder of the funds so allocated may be expended only for wages, employment benefits, training, and supportive services, to persons employed in public service employment under this part.

(Pub. L. 93-203, title II, § 232, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1958.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 855 of this title.

§ 855. Allocation of funds

(a) Allocations among prime sponsors

Funds made available for carrying out this part shall be allocated among prime sponsors by the Secretary in accordance with subsection (b) of this section.

(b) Reservation of funds for Native American entities

The Secretary shall reserve an amount equal to not less than 2 percent of the amounts made available pursuant to section 854 of this title for any fiscal year to enable Native American entities which are described in section 872(c)(1)(A) of this title to carry out public service employment programs under this part. Eighty-five percent of the amounts made available for this part for any fiscal year shall be allocated in accordance with subsection (c) of this section.

(c) Amount allocated to prime sponsors

(1) Twenty-five percent of the amount allocated under this subsection shall be allocated among prime sponsors in proportion to the relative number of unemployed persons who reside in areas within the jurisdiction of each such prime sponsor as compared to the number of unemployed persons who reside in all such areas in all the States.

(2) Twenty-five percent of the amount allocated under this subsection shall be allocated among prime sponsors on the basis of the relative excess number of unemployed persons who reside within the jurisdiction of the prime sponsor as compared to the total excess number of unemployed persons who reside within the jurisdiction of all prime sponsors. For purposes of this subparagraph, the term "excess number" means (i) the number which represents unemployed persons in excess of 4½ percent of the labor force in the jurisdiction of the prime sponsor in whose jurisdiction such persons reside, or (ii) in the case of a prime sponsor which is a State, the term "excess number" means such number as defined in clause (i) or the number which represents unemployed persons in excess of 4½ percent of the labor force in areas of substantial unemployment.

(3) Twenty-five percent of the amount allocated under this subsection shall be allocated among prime sponsors in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all areas of substantial unemployment.

(4) Twenty-five percent of the amount allocated under this subsection shall be allocated on the basis of the relative number of adults in families with an annual income below the low-income level within the jurisdiction of the prime sponsor compared to such total numbers in all such jurisdictions.

(d) Allocation of remaining funds

(1) The Secretary shall, from the remainder of the funds made available under this part, first use such remainder—

(A) to provide continued support for concentrated employment program grantees serving rural areas having high levels of unemployment, and

(B) to allocate among the prime sponsors serving areas within those standard metropolitan statistical areas and central cities for which current population surveys were used to determine annual unemployment data prior to January 1, 1978, in proportion to the extent to which such prime sponsors allocations under this section and subchapter IV of this chapter are reduced as a result of termination of the use of such surveys, but in no event shall such a prime sponsor receive an amount in excess of the amount of such reduction.

The allocations required under clause (B) of this subparagraph shall not be made for any fiscal year beginning on or after October 1, 1980, or until such time as the Secretary determines that current population survey data is available for use on a satisfactory basis for such areas and the remaining area of each State, whichever occurs first.

(2) The remainder of the amount made available under this part shall be available to the Secretary for financial assistance to prime sponsors and Native American entities described in section 872(c)(1)(A) of this title as the Secretary deems appropriate.

(e) Use of average annual date

For purposes of making allocations under subsections (c)(1) and (c)(2) of this section, the Secretary shall use average annual data for the most recent 12-month period for which satisfactory data are available.

(Pub. L. 93-203, title II, § 233, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1958.)

§ 856. Expenditure of funds

Funds available for the purposes of this part shall be utilized by prime sponsors for public service employment activities, or projects carried out by project applicants as defined in section 802 of this title, or for activities set forth in section 846 of this title.

(Pub. L. 93-203, title II, § 234, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1959.)

§ 857. Applicability of section 966 of this title

The provisions set forth in section 966 of this title shall be applicable to this part.

(Pub. L. 93-203, title II, § 235, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1959.)

§ 858. Eligibility

(a) An individual eligible to be employed in a position supported under this part shall be a person (1) who has been unemployed for at least 15 weeks and who is economically disadvantaged, or (2) who is, or whose family is receiving aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], or who is receiving supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.].

(b) The provisions of section 824(h) of this title shall apply to duration of participation under this part.

(Pub. L. 93-203, title II, § 236, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1959.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV and title XVI of the Social Security Act are classified generally to part A (§ 601 et seq.) of subchapter IV and subchapter XVI (§ 1381 et seq.) of chapter 7 of Title 42, The Public Health and Welfare, respectively. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

§ 859. Payment of wages

(a) Wages to individuals employed in public service employment under this part shall be paid in accordance with sections 824(i) and 826 of this title.

(b) Public service employment participants under this part may not have their wages supplemented by the payment of any additional wages for such employment from any source whatever, except as provided in section 824(i)(4)(B) of this title.

(Pub. L. 93-203, title II, § 237, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1960.)

SUBCHAPTER III—SPECIAL FEDERAL RESPONSIBILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 816, 822, 825 of this title.

PART A—SPECIAL NATIONAL PROGRAMS AND ACTIVITIES

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 846, 970 of this title.

§ 871. Special programs and activities

(a) Use of funds for employment and training programs; requirements

The Secretary shall use funds available under this subchapter to provide services authorized under all subchapters of this chapter and for employment and training programs that—

(1) meet the employment-related needs of persons who face particular disadvantages in specific and general labor markets or occupations, including offenders, persons of limited English language proficiency, handicapped individuals, women, single parents, displaced homemakers, youth, older workers, individuals who lack educational credentials, public assistance recipients, and other persons whom the Secretary determines require special assistance;

(2) are most appropriately administered from the national level, such as programs sponsored by public agencies or private orga-

nizations that conduct federally assisted activities in more than one State;

(3) foster new or improved linkages between Federal, State, and local employment and training agencies and components of the private sector, such as the business community, organized labor, and community based organizations;

(4) provide continued support for programs of demonstrated effectiveness;

(5) eliminate or reduce critical skill shortages in the Nation's labor force; and

(6) serve individuals who become unemployed as a result of large-scale loss of jobs in a locality, caused by the closing of a facility, mass layoffs, natural disasters, or similar circumstances;[1]

(b) Financial assistance respecting programs for displaced homemakers, offenders, persons of limited English-speaking ability, and handicapped individuals

(1)(A) The Secretary shall make available financial assistance to conduct programs to provide employment opportunities and appropriate training and supportive services (through multipurpose projects or otherwise) to displaced homemakers. Such training and supportive services shall include, but not be limited to, job training, job readiness services, job counseling, job search, and job placement services; outreach and information services, including information on available education opportunities; and referrals (through cooperative arrangements, to the maximum extent feasible) to health, financial management, legal, public assistance, and other appropriate supportive services in the community being served. To the maximum extent feasible, activities supported under this paragraph shall be coordinated with and supplement, but not supplant, activities supported under other subchapters of this chapter and shall emphasize training and other employment related services for participants that are designed to enhance their employability and earnings. Programs shall concentrate on creating new jobs in the private sector for displaced homemakers in order to meet identified needs within the community. To the maximum extent feasible, supervisory, technical, and administrative positions within the programs shall be filled by displaced homemakers. Priority for participation in projects supported under this paragraph shall be given to displaced homemakers who, as provided in regulations which the Secretary shall prescribe, are most in need of services by virtue of age, education, training, household support obligations, and employability.

(B) No funds available under this section shall be used for the purchase, construction, or major rehabilitation of facilities.

(C) For the purposes of carrying out this subsection, the Secretary shall reserve not more than 2 percent of the funds made available to carry out this subchapter.

(2) The Secretary shall make financial assistance available to conduct a program for offenders to provide employment, training and related assistance and supportive services (including basic education, drug addiction or dependency rehabilitation and health care) which will enable them to secure and retain meaningful employment. The Secretary shall support activities designed to enable offenders to secure meaningful training and employment including but not limited to those services which provide highly structured and supervised employment opportunities, such as employment and training opportunities proven effective under section 879(c) of this title. Emphasis shall be placed upon serving offenders in contact with the criminal justice system or recently released from criminal justice custody or supervision. Services shall be comprehensive, and recipient of funds shall coordinate their activities with other providers of employment and training assistance. Grants may also be provided to the States or prime sponsors for the establishment of units for planning and evaluation of correctional employment and training assistance to offenders. The Secretary may provide for appropriate arrangements with employers and labor organizations, and appropriate parole, probationary, and judicial authorities, for the utilization of training equipment comparable to that currently used for the job for which training is furnished. To support such programs the Secretary shall develop information concerning the special needs of offenders for such services, including special studies regarding the incidence of unemployment among offenders and the means of increasing employment opportunity for offenders. As part of the reporting requirements under section 829(a) of this title, the Secretary shall also conduct an annual survey of prime sponsors and States receiving assistance under this chapter for the purpose of assessing the scope and implementation of offender programs.

(3) With respect to programs for persons of limited English-speaking ability under this chapter, the Secretary shall establish appropriate procedures to ensure that participants are provided with employment and training and related assistance and supportive services (where feasible, at times designed to meet the needs of individuals unable to attend during normal working hours) designed to increase the employment and training opportunities for unemployed and underemployed persons of limited English-speaking ability, including (A) the teaching of occupational skills in the primary language of such persons for occupations which do not require a high proficiency in English, and (B) developing new employment opportunities for limited English-speaking persons and opportunities for promotion within existing employment situations for such persons, including programs for the dissemination of appropriate information, and job placement, and counseling assistance, and the conduct of training and employment programs, in the primary language of such persons, as well as programs designed to increase the English-speaking ability of such persons.

(4) The Secretary shall make financial assistance available to conduct programs for handicapped individuals, youth, single parents, and older workers to provide employment, training

[1] So in original. The semicolon probably should be a period.

and related assistance and supportive services which will enable them to secure and retain meaningful employment. Such programs shall be designed to assist in eliminating artificial and other employment barriers faced by such persons.

(c) Report to Congress

The Secretary shall report to the Congress not later than March 1 of each year with detailed information and analysis of the programs conducted pursuant to this section. The information required by this subsection may be included in the annual report of the Secretary under section 829(a) of this title.

(d) Supplementary use of funds

Funds allocated to recipients for purposes of this section shall be used to supplement funds which otherwise would be used for purposes of undertaking the same or similar programs and activities for such persons.

(e) Coordination with other programs

To the extent appropriate, programs financed under this part shall be coordinated with programs conducted by prime sponsors under this chapter, and the Secretary shall notify such prime sponsors of the funding of an employment and training program under this part.

(f) Eligibility requirements for programs for workers age fifty-five and older

Notwithstanding any other provisions of this chapter, eligibility requirements for programs for workers age fifty-five and older, which were established under title X of the Public Works and Economic Development Act of 1965 [42 U.S.C. 3246 et seq.], and which thereafter have been funded under section 874 of this title prior to October 27, 1978, shall be those which applied when the programs were established under title X.

(g) Local workshops

The Secretary shall establish a special program for the funding of local workshops for the training of youths and other individuals who wish to pursue careers as self-employed owners and managers of small businesses. Such workshops should provide instruction in management techniques, business communication skills, motivational training, special problems in business operation, advice concerning Federal and State regulations, preparation of financial statements and loan applications, recordkeeping, development of marketing techniques, and information on beneficial resources available within the community.

(Pub. L. 93-203, title III, § 301, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1960.)

REFERENCES IN TEXT

The Public Works and Economic Development Act of 1965, referred to in subsec. (f), is Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, as amended. Title X of the Public Works and Economic Development Act of 1965 is classified generally to subchapter X (§ 3246 et seq.) of chapter 38 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 871, Pub. L. 93-203, title III, § 301, Dec. 28, 1973, 87 Stat. 857, which provided for additional manpower services, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROJECTS AS PART OF OPERATION MAINSTREAM PROGRAM: APPROPRIATIONS

Pub. L. 94-135, title I, § 113(c), Nov. 28, 1975, 89 Stat. 725, authorized the use of sums appropriated to carry out section 3061 et seq. of Title 42, The Public Health and Welfare, for the fiscal year ending June 30, 1975, for older American community service employment projects conducted as part of the Operation Mainstream program under the former provisions of this subchapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 815, 824 of this title; title 20 section 2412.

§ 872. Native American employment and training program

(a) Congressional findings

The Congress finds that (1) serious unemployment and economic disadvantage exist among members of Native American Indian, Alaskan Native, and Hawaiian native communities; (2) there is a compelling need for the establishment of comprehensive training and employment programs for members of those communities; and (3) such programs are essential to the reduction of economic disadvantage among individual members of those communities and to the advancement of economic and social development in these communities consistent with their goals and lifestyles.

(b) Congressional declarations

The Congress therefore declares that, because of the special relationship between the Federal Government and most of those to be served by the provisions of this section, (1) such programs can best be administered at the national level; (2) such programs shall be available to federally recognized Native American Indian tribes, bands, and groups and to other groups and individuals of Native American descent such as, but not limited to, the Lummis in Washington, the Menominees in Wisconsin, the Klamaths in Oregon, the Oklahoma Indians, the Passamaquoddys and Penobscots in Maine, and Eskimos and Aleuts in Alaska, and Hawaiian natives; and (3) such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by this section.

(c) Utilization of Indian tribes, bands, or groups; submission of plan

(1)(A) In carrying out responsibilities under this section, the Secretary shall, wherever possible, utilize Native American Indian tribes, bands, or groups on Federal or State reservations (including Alaska Native villages or groups as defined in the Alaska Native Claims Settlement Act of December 18, 1971 [43 U.S.C. 1601 et seq.]) and the Oklahoma Indians, having a governing body and such public agen-

cies and private nonprofit organizations as the Secretary determines will best serve Native Americans, for the provision of employment and training services under this section. When the Secretary determines that such tribe, band, or group has demonstrated the capability to effectively administer a comprehensive employment and training program, the Secretary shall require such tribe, band, or group to submit a comprehensive plan meeting such requirements as the Secretary prescribes.

(B) The Secretary shall arrange for programs to meet the employment and training needs of Hawaiian natives through such public agencies or private nonprofit organizations as the Secretary determines will best meet their needs.

(2) In carrying out responsibilities under this section, the Secretary shall make arrangements with prime sponsors and organizations (meeting requirements prescribed by the Secretary) serving nonreservation Native Americans for programs and projects designed to meet the needs of such Indians for employment and training and related services.

(d) Approval of Indian tribes, bands, or groups for utilization of public or private agencies

Whenever the Secretary determines not to utilize Native American Indian tribes, bands, or groups for the provision of employment and training services under this section, the Secretary shall, to the maximum extent feasible, enter into arrangements for the provision of such services with public agencies or private nonprofit organizations which meet with the approval of the tribes, bands, or groups to be served.

(e) Administrative procedures and machinery

The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the administration of Native American employment and training programs authorized under this chapter.

(f) Availability of funds

Funds available for this section shall be expended for programs and activities consistent with the purposes of this section including but not limited to such programs and activities carried out by prime sponsors under other provisions of this chapter.

(g) Reservation of funds

For the purpose of carrying out this section, the Secretary shall reserve from funds available for this subchapter an amount equal to not less than 4.5 percent of the amount allocated pursuant to section 842(a) of this title.

(h) Federal Government's trust responsibility to Indians not abrogated

No provision of this section shall abrogate in any way the trust responsibilities of the Federal Government to Native American bands, tribes, or groups.

(Pub. L. 93–203, title III, § 302, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1962.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act of December 18, 1971, referred to in subsec. (c)(1)(A), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

PRIOR PROVISIONS

A prior section 872, Pub. L. 93–203, title III, § 302, Dec. 28, 1973, 87 Stat. 858; Pub. L. 95–93, title III, § 303(a)–(d), Aug. 5, 1977, 91 Stat. 650, which related to Native American employment and training programs, was omitted from the General revision of Pub. L. 93–203 by Pub. L. 95–524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 824, 825, 855, 900, 904, 910, 943, 944, 964, 966, 982, 983, 993 of this title.

§ 873. Migrant and seasonal farmworker employment and training programs

(a) Congressional findings and declarations

The Congress finds and declares that—

(1) chronic seasonal unemployment and underemployment in the agricultural industry, substantially affected by recent advances in technology and mechanization, constitute a substantial portion of the Nation's rural employment problem and substantially affect the entire national economy; and

(2) because of the special nature of farmworker employment and training problems such programs can best be administered at the national level.

(b) Use of public agencies and private nonprofit organizations to meet employment and training needs

(1) The Secretary shall meet the employment and training needs of migrants and seasonal farmworkers through public agencies and private nonprofit organizations, including, but not limited to, programs and activities carried out by prime sponsors under other provisions of this chapter, as the Secretary determines have an understanding of the problems of migrant and seasonal farmworkers, a familiarity with the area to be served, and a capability to administer effectively a comprehensive employment and training program for migrant and seasonal farmworkers.

(2) Programs supported under this section shall include, but not be limited to, employment and training in traditional as well as newly developing agricultural occupations and related assistance and supportive services.

(c) Preferential weighting factor respecting award of grants and contracts; continuation of existing programs; reservation of funds

(1) In awarding a grant or contract for services administered under this section, the Secretary shall not assign any preferential weighting factor to an application therefor by virtue of the fact that the applicant holds at the time of application a prior grant or contract to provide services under this section; nor shall the Secretary assign any negative weighting factor to an application by virtue of the fact that an applicant is an instrumentality of State government.

(2) In carrying out programs and activities under this section, the Secretary shall continue in operation any program which is in existence on October 27, 1978, and—

(A) which is—

(i) operated through the use of the facilities of any institution of higher education; and

(ii) designed to assist migrant and seasonal farmworkers who are beyond the age of compulsory school attendance in the State in which the institution is located, through tutoring, counseling, and other similar assistance, in the completion of courses necessary to receive a high school diploma or its equivalent; or

(B) which serves migrant and seasonal farmworkers who are enrolled in a full-time basis in the first academic year of an undergraduate program at any institution of higher education, and the dependents of migrant and seasonal farmworkers if such dependents are so enrolled by—

(i) aiding such individuals in carrying out the transition from secondary school to postsecondary school programs;

(ii) generating motivation necessary for success in education beyond secondary school; and

(iii) providing counseling, tutorial, and similar educational services designed to assist such individuals during their first academic year at such institution.

The Secretary shall continue the operation of any such program for so long as such program is consistent with the purposes of this section, as determined by the Secretary.

(3) For the purpose of carrying out this section, the Secretary shall reserve from funds available for this subchapter an amount equal to not less than 5 percent of the amount allocated pursuant to section 842(a) of this title.

(e)[1] Consultation and agreement with State and local officials

In administering programs under this section, the Secretary shall consult with appropriate State and local officials and may enter into agreements with such officials to assist in the operation of such programs. In implementing this section the Secretary shall determine in consultation with appropriate State and local educational agencies, that no substantial duplication will exist.

(Pub. L. 93-203, title III, § 303, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1964.)

AMENDMENT AND REDESIGNATION OF SUBSECTION (c)(3) AS (d)

Pub. L. 96-88, title V, § 508(h)(3), title VI, § 601(a), Oct. 17, 1979, 93 Stat. 693, 696, provided that, effective 180 days after the first Secretary of Education takes office, or on any earlier date on or after Oct. 1, 1979, as the President prescribes and publishes in the Federal Register, subsec. (c) as amended by striking out par. (3) and inserting in lieu thereof a new subsec. (d) to read as follows:

(d) For the purposes of carrying out subsections (b) and (c) of this section, the Secretary shall reserve from funds available for this subchapter an amount equal to not less than 4.625 percent of the amount allocated pursuant to section 842(a) of this title.

CODIFICATION

Section 508(h)(3) of Pub. L. 96-88 provided in its directory language for the amendment of section 302 of the Comprehensive Employment and Training Act. Section 302 is classified to section 872 of this title. However, the amendment by Pub. L. 96-88, § 508(h)(3) was classified to this section as the probable intent of Congress.

PRIOR PROVISIONS

A prior section 873, Pub. L. 93-203, title III, § 303, Dec. 28, 1973, 87 Stat. 859, which related to migrant and seasonal farmworker manpower programs, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

TRANSFER OF FUNCTIONS

All functions of the Secretary of Labor or the Department of Labor under subsec. (c)(2) of this section were transferred to the Secretary of Education pursuant to section 3443(a) of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 900, 904, 910, 993 of this title; title 20 sections 2561, 2762, 3443.

§ 874. Job search and relocation assistance

(a) Agreements with States, State agencies or prime sponsors

The Secretary is authorized to carry out job search and relocation assistance through agreements with States, State agencies or prime sponsors.

(b) Persons entitled to job search assistance

Job search assistance shall be available to economically disadvantaged, unemployed, and underemployed persons.

(c) Form of relocation assistance; persons entitled to relocation assistance

(1) Relocation assistance may be provided in the form of loans or grants, or both, subject to such standards as the Secretary establishes.

(2) Relocation assistance shall be available only to involuntarily unemployed individuals who cannot reasonably be expected to secure fulltime employment in the community in which they reside, and have bona fide offers of employment (other than temporary or seasonal employment).

(Pub. L. 93-203, title III, § 304, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1965.)

PRIOR PROVISIONS

A prior section 874, Pub. L. 93-203, title III, § 304, Dec. 28, 1973, 87 Stat. 859, which provided for youth programs and other special programs, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 891 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 871 of this title.

§ 875. Veterans information and outreach

The Secretary, in consultation and cooperation with the Administrator of Veterans Affairs and the Secretary of Health, Education, and Welfare, shall provide for an outreach and

[1] So in original. Section enacted without a subsec. (d).

public information program utilizing, to the maximum extent, the facilities of the Departments of Labor and Health, Education, and Welfare and the Veterans' Administration to exercise maximum efforts to develop jobs and job training opportunities for disabled and Vietnam-era veterans, and inform all such veterans about employment, job-training, on-the-job training and educational opportunities under this chapter, under title 38, and other provisions of law; and inform prime sponsors, Federal contractors and subcontractors, Federal agencies, educational institutions, labor unions, and employers of their statutory responsibilities toward such veterans, and provide them with technical assistance in meeting those responsibilities.

(Pub. L. 93–203, title III, § 305, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1965.)

PRIOR PROVISIONS

A prior section 875, Pub. L. 93–203, title III, § 306, Dec. 28, 1973, 87 Stat. 860, which related to a consultation with the Secretary of Health, Education, and Welfare, was omitted from the Code in the general revision of Pub. L. 93–203 by Pub. L. 95–524. See section 821 of this title.

Provisions similar to those comprising this section were contained in former section 803 of this title prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

CHANGE OF NAME

The Secretary and the Department of Health, Education, and Welfare were redesignated the Secretary and the Department of Health and Human Services by section 3508 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 802 of this title.

§ 876. Programs for the handicapped

(a) Congressional findings and declarations

(1) The Congress finds and declares that due to the rapid implementation of programs to assist handicapped individuals mandated under the Education for the Handicapped Act [20 U.S.C. 1401 et seq.] and section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], there is a need for people to provide the special supportive services and removal of architectural barriers required by these Acts.

(2) The Congress further declares that the individuals to be served under this section represent a large percentage of the unemployed, and that these services will provide meaningful improvement of the lives of the handicapped individuals served.

(b) Establishment of program to train personnel to work with and assist handicapped individuals

The Secretary shall establish programs throughout the Nation which shall train personnel to work with and assist handicapped individuals. These programs may be in any areas of training or education which provide individuals with skills necessary to train or provide assistance to handicapped persons, including, but not limited to, interpreters for the deaf and aides in classrooms to assist in the education of the handicapped.

(c) Establishment of administrative procedures and machinery

The Secretary shall take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the administration of programs authorized under this section.

(Pub. L. 93–203, title III, § 306, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1965.)

REFERENCES IN TEXT

The Education for the Handicapped Act, referred to in subsec. (a)(1), is Pub. L. 91–230, title VI, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1401 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1401 of Title 20 and Tables.

PRIOR PROVISIONS

A prior section 306 of Pub. L. 93–203, title III, Dec. 28, 1973, 87 Stat. 860, which related to a consultation with the Secretary of Health, Education, and Welfare, was classified to former section 875 of this title, prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

§ 877. Partnership programs

(a) Development of partnership arrangements between prime sponsors and employment security agencies

From funds available under this subchapter the Secretary is authorized to promote the development of partnership arrangements between prime sponsors and employment security agencies. Such partnerships shall constitute a segment of an integrated and comprehensive intake, service and placement system and shall be designed to achieve an employability plan and comprehensive program of job preparation and job search assistance for all participants under this chapter. Such partnerships may also include other related public and private nonprofit agencies and organizations, including community-based organizations.

(b) Results of partnerships

Such partnerships may result in—

(1) the creation of a joint-planning, administrative, and operational entity;

(2) combining and colocation of staff; and

(3) a joint data base and information system.

(c) Reimbursement for costs associated with implementation of partnership

The Secretary is authorized to reimburse prime sponsors for costs associated with the implementation of a partnership and to provide incentives to ensure that employment security agencies may participate on an equitable basis.

(Pub. L. 93–203, title III, § 307, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1966.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 815 of this title.

§ 878. Projects for middle-aged and older workers

(a) Development and establishment of programs; research

The Secretary shall—

(1) develop and establish employment and training policies and programs for middle-

aged and older workers which will reflect appropriate consideration of these workers' importance in the labor force and lead to a more equitable share of employment and training resources for middle-aged and older workers;

(2) develop and establish programs to facilitate the transition of workers over 55 years of age from one occupation to another within the labor force and to facilitate the transition of such workers from non-participation to participation in the labor force including work experience, vocational education, public service employment, on-the-job training, occupational upgrading, and job search and placement, and technical assistance to employers for establishing flexi-time, job sharing, and other innovative arrangements suited to the needs of older workers;

(3) conduct research on the relationships between age and employment and insure that the findings of such research are widely disseminated in order to assist employers in both the public and private sectors better understand and utilize the capabilities of middle-aged and older workers; and

(4) develop and establish programs to develop methods designed to assure increased labor force participation by older workers who are able and willing to work but who have been unable to secure employment or who have been discouraged from seeking employment.

(b) Arrangements with prime sponsors, members of business community, etc.

In carrying out the provisions of subsection (a) of this section the Secretary shall provide for appropriate arrangements to be made with prime sponsors, members of the business community (including small business), labor organizations, local educational agencies, and community-based organizations as defined in section 802 of this title. Such arrangements may include, but need not be limited to—

(1) an analysis of the local labor force on the basis of such factors as age, educational background, income, race, and sex, focusing particularly on comparative rates of labor force participation and of unemployment and underemployment among the various demographic groups studied;

(2) an assessment of each participant's skills and work experience for purposes of formulating realistic second career objectives, including formal vocational testing instruments supplemented by such functional assessment methods and techniques to detect those skills and abilities of a participant as may be related to desired second career and occupational upgrading objectives;

(3) second career and occupational upgrading counseling by individuals knowledgeable about the employment and training needs of middle-aged and older workers;

(4) the establishment of second career objectives which will—

(A) provide reasonable assurances to the participant that public and private sector demand exists for the skills developed in the second careers program; and

(B) enable the participant to compete successfully in the job market; and

(5) establishment of formal second careers training agreements, between participants and program sponsors, which—

(A) set forth the career objectives of the participants and the steps required of each participant and prime sponsor to achieve these objectives;

(B) will remain in force until its terms are fulfilled, or renegotiated or terminated according to such procedures as shall be prescribed by the Secretary; and

(C) may be renegotiated or terminated, at any time, by the participant, or by the program sponsor for good cause.

(c) Payment of reasonable training costs of program sponsors

The Secretary is hereby authorized to pay program sponsors reasonable training costs to participants in second careers programs to the extent necessary to achieve the objectives of such programs in accordance with regulations prescribed by the Secretary, but in no case shall such payment exceed the permissible maximum under section 824(i)(1) of this title. Such costs may include reasonable tuition for participants engaged in technical or other institutional training and payments to program sponsors providing on-the-job training, provided that such payments are based on the actual number of hours of such training given to the second careers program participant. The Secretary is authorized to pay for equipment, materials, and such other costs necessary for a participant to achieve the objectives of his second careers program.

(d) Part-time or flexible time basis respecting participation in employment and training programs

Programs assisted under this section may provide for participation in employment and training programs on a part-time or flexible-time basis.

(e) Individuals entitled to be program participants

Participants in programs authorized under this section shall be individuals over the age of 55 who are unemployed, underemployed, or economically disadvantaged, who have a family income (exclusive of any income received under a Federal or State welfare or unemployment program) which is not in excess of 125 percent of the poverty level established by the Director of the Office of Management and Budget.

(f) Reservation of funds

For the purposes of carrying out this section, the Secretary shall reserve from funds available for this subchapter not more than 5 percent of the amount available for this subchapter.

(g) Affect on other employment and training opportunities

No provision of this section shall be construed as intending any diminution of the employment and training opportunities available to workers over 55 years of age under subchapters II, VI, and VII of this chapter.

(Pub. L. 93-203, title III, § 308, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1966.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 850 of this title.

PART B—RESEARCH, TRAINING, AND EVALUATION

§ 879. Research

(a) Establishment of comprehensive program of employment and training research

To assist the Nation in expanding work opportunities and assuring access to those opportunities for all who desire it, the Secretary shall establish a comprehensive program of employment and training research utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the Nation's employment and training problems. The programs required by this section may include, but need not be limited to, studies, the findings of which may contribute to the formulation of employment and training policy; development or improvement of employment and training programs; increased knowledge about labor market processes, including programs designed to eliminate artificial barriers to employment; reduction of unemployment and its relationships to price stability; promotion of more effective worker development, training, and utilization; improved national, regional and local means of measuring future labor demand and supply; enhancement of job opportunities; skill training to qualify employees for positions of greater skill, responsibility, and remuneration; meeting of worker shortages; easing of the transition from school to work, from income transfer payment dependency to employment, from one job to another, and from work to retirement; testing the usefulness of sheltered employment for the difficult to employ; opportunities and services for older persons who desire to enter or reenter the labor force; and for improvement of opportunities for employment and advancement through the reduction of discrimination and disadvantage arising from poverty, ignorance, or prejudice.

(b) Establishment of experimental, developmental, demonstration, and pilot projects through grants and contracts

The Secretary shall establish a program of experimental, developmental, demonstration, and pilot projects, through grants to or contracts with public agencies or private organizations, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting employment and training problems. Nothing in this subsection shall authorize the Secretary to carry out employment programs experimenting with subsidized wages in the private sector or wages less than wages established by the Fair Labor Standards Act of 1938 [29 U.S.C. 201 et seq.] for employment subject to that Act. In carrying out this subsection, the Secretary shall consult with such other agencies as may be appropriate. Where programs under this section require institutional training, appropriate arrangements for such training shall be agreed to by the Secretary and the Secretary of Health, Education, and Welfare.

(c) Supportive employment and training projects of an experimental or demonstration nature

The Secretary is authorized to conduct supportive employment and training projects of an experimental and demonstration nature as part of, or coordinated with, experimental or demonstration programs of a similar nature that the Secretary has been conducting for unemployed persons with serious problems in the labor market, such as juvenile delinquents, mentally and emotionally handicapped individuals, alcoholics, ex-addicts, ex-offenders, and recipients of aid to families with dependent children, to enable them, through temporary, highly structured and supervised work experience, to make the transition to employment or self-employment. Such programs shall provide for skill training as required to effect such transition.

(d) Programs respecting investigations of work hours arrangements and job and wage classifications systems

The Secretary is authorized to undertake research programs to (1) investigate the applicability of job-sharing, work-sharing and other flexible work hours arrangements in various settings, and of the incentives and technical assistance required by employers to implement such alternative working arrangements; and (2) investigate the extent to which job and wage classification systems undervalue certain skills and responsibilities on the basis of the sex of persons who usually hold the positions.

(e) Programs designed to assist persons who might otherwise rely on public assistance

The Secretary is authorized to conduct a variety of demonstration and experimental projects to test the best methods of assisting persons, who might otherwise rely on public assistance or other income assistance, to find nonfederally assisted employment in the private and public sectors, and to provide federally assisted work and training opportunities for any such persons who are unable to find nonfederally assisted work or training opportunities. Such demonstration and experimental projects and programs are to be conducted, to the extent practicable, in rural and urban areas, in sparsely and densely populated areas, and in areas with inadequate means of transportation.

(f) Demonstration programs providing expanded guidance and counseling services to participants under this chapter

The Secretary is authorized to conduct demonstration programs and projects, which provide expanded guidance and counseling services to participants under this chapter through community vocational resource centers established in economically distressed communities or areas pursuant to section 2354(a)(7) of title 20. Such programs shall provide State boards of vocational education, which establish such community vocational resource centers, with funding for up to 50 per centum of the cost of such projects. The Secretary may make such funds available to a State board of vocational education when such board reaches agreement with the prime sponsor to assist out-of-school individuals in reentering school at the secondary or postsecondary level, to take advantage of voca-

tional skill training opportunities including cooperative education and work-study programs, and to be offered referral to other training programs, apprenticeship programs, and on-the-job training for which academic credit may be available. Projects shall include provisions for outreach to inform the economically disadvantaged of the assistance available through the community resource centers and to provide assurances that programs will be coordinated with other guidance and counseling activities of the prime sponsor, including activities under section 920(c) of this title, other in-school guidance and counseling programs in the area, State employment service offices, and the activities of the private industry councils established pursuant to subchapter VII of this chapter.

(g) Educational and assistance programs designed to eliminate artificial barriers to employment

The Secretary shall conduct educational and assistance programs designed to eliminate artificial barriers to employment based upon race, sex, national origin, age, records of arrest or conviction, handicaps, marital status, or other criteria. To support such programs, information shall be developed identifying all such artificial barriers, the numbers of persons affected, the manner in which such barriers operate and how such barriers can best be eliminated. In complying with the requirements of this subsection, the Secretary shall consult with the Department of Health, Education, and Welfare, the United States Civil Rights Commission, and the Equal Employment Opportunity Commission.

(Pub. L. 93–203, title III, § 311, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1968.)

AMENDMENT OF SUBSECTION (g)

Pub. L. 96–88, title V, § 508(h)(4), title VI, § 601(a), Oct. 17, 1979, 93 Stat. 693, 696, provided that, effective 180 days after the first Secretary of Education takes office, or on any earlier date on or after Oct. 1, 1979, as the President prescribes and publishes in the Federal Register, subsec. (g) of this section is amended by substituting "Health and Human Services, Department of Education" for "Health, Education, and Welfare".

REFERENCES IN TEXT

The Fair Labor Standards Act of 1938, referred to in subsec. (b), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified principally to chapter 8 (§ 201 et seq.) of this title. For complete classification of this Act to the Code, see section 201 of this title and Tables.

PRIOR PROVISIONS

A prior section 311 of Pub. L. 93–203, title III, Dec. 28, 1973, 87 Stat. 860; Pub. L. 94–444, § 10, Oct. 1, 1976, 90 Stat. 1483, which related to the establishment of a comprehensive program of manpower research, was classified to former section 881 of this title, prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

CHANGE OF NAME

The Secretary of Health, Education, and Welfare was redesignated the Secretary of Health and Human Services by section 3508 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 871 of this title.

§ 880. Labor market information and job bank program

(a) Comprehensive system of labor market information

The Secretary shall develop a comprehensive system of labor market information on a national, State, local, or other appropriate basis, which shall be made publicly available in a timely fashion.

(b) Statistically accurate data on unemployment, underemployment, and labor demand

In addition to the monthly national unemployment statistics, the Secretary shall develop reliable methods, including the use of selected sample surveys, to produce more statistically accurate data on unemployment by State and local areas, and shall investigate alternative methods to produce more accurate data on underemployment and labor demand by State and local areas.

(c) Annual statistical measure of labor market related economic hardship

The Secretary shall develop data for an annual statistical measure of labor market related economic hardship in the Nation. Among the factors to be considered in developing such a measure are unemployment, labor force participation, involuntary part-time employment, and full-time employment at wages less than the poverty level.

(d) Household budget data

The Secretary shall develop methods to establish and maintain more comprehensive household budget data at different levels of living, including a level of adequacy, to reflect the differences of household living costs in regions and localities, both urban and rural.

(e) Sums set aside; notification to Congress

The Secretary shall set aside, out of sums available to the Department for any fiscal year including sums available for this subchapter, an amount which the Secretary determines is necessary and appropriate to carry out the provisions of this section, and shall, no later than sixty days after such sums are appropriated and made available, notify the appropriate committees of the Congress of the amount so set aside and the basis for the determination of need and appropriateness.

(f) Job bank

The Secretary shall establish and carry out a nationwide computerized job bank and matching program (including the listing of all suitable employment openings with local offices of the State employment service agencies by Federal contractors and subcontractors and providing for the affirmative action as required by section 2012(a) of title 38) on a regional, State, and local basis, using electronic data processing and telecommunications systems to the maximum extent possible for the purpose of identifying sources of available persons and job vacancies, providing an expeditious means of matching the qualifications of unemployed, underemployed, and economically disadvantaged persons with employer requirements and job opportunities, and referring and placing such persons in jobs.

(Pub. L. 93-203, title III, § 312, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1970.)

PRIOR PROVISIONS

A prior section 312 of Pub. L. 93-203, title III, Dec. 28, 1973, 87 Stat. 881, which related to development of a system of labor market information and establishment of a job bank program, was classified to former section 882 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 881. Evaluation

(a) Effectiveness, impact, etc., of all programs, activities, and research and demonstration projects conducted pursuant to this chapter

The Secretary shall provide for the continuing evaluation of all programs, activities, and research and demonstration projects conducted pursuant to this chapter, including their cost-effectiveness in achieving the purposes of this chapter, their impact on communities and participants, their implication for related programs, the extent to which they meet the needs of persons by age, sex, race, and national origin, and the adequacy of the mechanism for the delivery of services. In conducting evaluations the Secretary shall compare the effectiveness of programs conducted by prime sponsors of the same class and of different classes, and shall compare the effectiveness of programs conducted by prime sponsors with similar programs carried out by the Secretary under the chapter. The Secretary shall also arrange for obtaining the opinions of participants about the strengths and weaknesses of the programs.

(b) Effectiveness of programs authorized under part C of title IV of the Social Security Act

The Secretary shall evaluate the effectiveness of programs authorized under this chapter and part C of title IV of the Social Security Act [42 U.S.C. 630 et seq.] with respect to the statutory goals and objectives, including increases in employment and earnings for participants, duration in training and employment situations, information on the post-enrollment labor market experience of program participants for at least a year following their termination from such programs, and comparable information on other employees or trainees of participating employers.

(c) Use of statistical sampling techniques to reduce paperwork and costs

In order to reduce the paperwork burden and costs on prime sponsors, project applicants and program agents, in carrying out evaluations of the cost-effectiveness of identical or similar programs of prime sponsors, the impact of such programs on communities and agents, the implication for related programs, and the adequacy of the mechanism for the delivery of services, the Secretary shall to the maximum extent possible, consistent with the purposes of this chapter, use statistical sampling techniques.

(d) Submission of annual evaluation plan to Congress

The Secretary shall prepare and submit to the Congress an annual evaluation plan, setting forth major themes for the areas of research, statistics, evaluation, experimentation, and demonstrations to be undertaken in the succeeding fiscal year, the program purposes and policy alternatives to which each such area is related and the current and proposed funding and staffing levels. The Secretary shall specify in the portions of the plan relating to experimentation and demonstrations the intended outcome of proposed major innovations and the amount of time required to test the innovations or to achieve adoption of the demonstration. The information required by this subsection may be included in the annual report of the Secretary under section 829(a) of this title.

(e) Submission of annual evaluation report to Congress

The Secretary shall prepare and submit to the Congress an annual evaluation report for employment and training programs. Such report may be included in the annual report of the Secretary under section 829(a) of this title. The Secretary shall include in such report—

(1) a summary of the achievements, failures, and problems of the various programs authorized in this chapter in meeting the objective of this chapter;

(2) a summary of major findings from research, evaluation, and experiments conducted in the previous fiscal year;

(3) recommendations for program modifications based upon analysis of such findings; and

(4) such other recommendations for legislative or administrative action as the Secretary deems appropriate.

(f) Development of program of notification and information dissemination to prime sponsors and Governors respecting program activities in their States

The Secretary shall develop an ongoing program to notify prime sponsors of experiments and demonstrations to be conducted in their States and shall disseminate to prime sponsors and Governors the results of all research, demonstrations, evaluations, and experiments of employment and training programs.

(g) Development of standard definitions and procedures for uniform reporting by prime sponsors; report to Secretary; "detailed occupational or training code" defined

(1) The Secretary shall—

(A) develop standard definitions of "enrollments", "completions", "job placements", and "training-related job placements" for classroom and on-the-job training programs funded under this chapter;

(B) establish procedures for the uniform reporting by prime sponsors of information on enrollments, completions, job placements, and training related placements by detailed occupational or training code for classroom and on-the-job training programs funded under this chapter; and

(C) make a report to the Congress not later than March 1, 1980, and annually thereafter, containing a summary of the information described in subparagraph (B) together with such analysis and recommendations as the Secretary deems advisable.

(2) The information required by paragraph (1)(C) may be included in the annual report of the Secretary under section 829(a) of this title.

(3) For the purposes of this subsection, the term "detailed occupational or training code" shall mean any occupational or training code equivalent in detail to the Standard Occupational Classification at the four-digit level.

(Pub. L. 93-203, title III, § 313, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1971.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part C of title IV of the Social Security Act is classified generally to part C (§ 630 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 881, Pub. L. 93-203, title III, § 311, Dec. 28, 1973, 87 Stat. 860; Pub. L. 94-444, § 10, Oct. 1, 1976, 90 Stat. 1483, relating to the establishment of a comprehensive program of manpower research, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 879 of this title.

A prior section 313 of Pub. L. 93-203, title III, Dec. 28, 1973, 87 Stat. 862, which related to an evaluation of the programs and activities conducted under this chapter, was classified to section 883 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 829 of this title.

§ 882. Training and technical assistance

The Secretary, in consultation with the Secretary of Health, Education, and Welfare, or other appropriate officials, shall provide directly or through grants, contracts, or other arrangements, appropriate preservice and inservice training for specialized, supportive, supervisory, or other personnel, and appropriate technical assistance with respect to programs under this chapter.

(Pub. L. 93-203, title III, § 314, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1972.)

AMENDMENT OF SECTION

Pub. L. 96-88, title V, § 508(h)(5), title VI, § 601(a), Oct. 17, 1979, 93 Stat. 693, 696, provided that, effective 180 days after the first Secretary of Education takes office, or on any earlier date on or after Oct. 1, 1979, as the President prescribes and publishes in the Federal Register, this section is amended by substituting "Education" for "Health, Education, and Welfare".

PRIOR PROVISIONS

A prior section 882, Pub. L. 93-203, title III, § 312, Dec. 28, 1973, 87 Stat. 861, relating to the development of a system of labor market information and establishment of a job bank program, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 880 of this title.

A prior section 314 of Pub. L. 93-203, title III, Dec. 28, 1973, 87 Stat. 863, which related to a continuous study with respect to the removal of artificial barriers to employment and advancement, was classified to former section 884 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

Provisions similar to those comprising this section were contained in former section 885 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 823 of this title.

§ 883. National Occupational Information Coordinating Committee

(a) The National Occupational Information Coordinating Committee, in carrying out its responsibilities under this section, shall give special attention to the labor market information needs of youth, including activities such as, but not limited to—

(1) assisting and encouraging local areas to adopt methods of translating national aggregate occupational outlook data into local terms;

(2) providing technical assistance for programs of computer on-line terminals and other facilities to utilize and implement occupational and career outlook information and projections supplied by State employment service agencies and to improve the match of youth career desires with available and anticipated labor demand;

(3) assisting and encouraging the development of State occupational information systems, accessible to local schools, including pilot programs in the use of computers to facilitate such access; and

(4) in cooperation with State and local correctional agencies, encouraging programs of counseling and employment services for youth in correctional institutions.

(5) in cooperation with State and local educational agencies, and other appropriate persons and organizations, encouraging programs to make available employment and career counseling to postsecondary youths; and

(6) providing technical assistance for programs designed to encourage public and private employers to list all available job opportunities for youths with the appropriate eligible applicant conducting occupational information and career counseling programs, local public employment services offices and to encourage cooperation and contact among such eligible applicants, employers, and offices.

(b) All funds available to the National Occupational Information Coordinating Committee under this chapter, under section 2391 of title 20 and under section 2611 of title 20 may be used by the Committee to carry out any of its functions and responsibilities authorized by law.

(Pub. L. 93-203, title III, § 315, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1972.)

REFERENCES IN TEXT

Section 2611 of title 20, referred to in subsec. (b), read in the original "section 12 of the Career Education Act" which was probably intended to be a reference to section 12 of the Career Education Incentive Act, which is classified to section 2611 of Title 20, Education.

PRIOR PROVISIONS

A prior section 883, Pub. L. 93-203, title III, § 313, Dec. 28, 1973, 87 Stat. 862, which related to the evaluation of programs and activities conducted under this chapter, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 881 of this title.

A prior section 315 of Pub. L. 93-203, title III, Dec. 28, 1973, 87 Stat. 863, which related to training and technical assistance, was classified to former section 885 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 822 of this title.

§ 884. Evaluations and incentive grants

(a) Any prime sponsor may volunteer for an evaluation of its subchapter II programs by the Department of Labor. Such evaluation may include monitoring of the rate of placement of subchapter II enrollees after leaving the subchapter II program, the salaries paid to such enrollees, the length of time that they remain in the job, and whatever other information that the Secretary determines, by regulation, is important in evaluating the performance of the prime sponsors. For purposes of making this evaluation, the performance of the prime sponsor shall be assessed by comparing enrollees to a comparable group of nonenrollees within the prime sponsor's area.

(b) The Secretary shall make awards from the funds appropriated under this subchapter to those prime sponsors which have performed well in their subchapter II functions. The Secretary shall make awards according to a unit measurement; each such unit may consist of some degree of improvement among subchapter II enrollees in job placement, salary, longevity, and whatever other factors the Secretary determines, by regulation, are important (each factor shall be weighed by the Secretary in a manner which best effectuates the purposes of this chapter), over performance on each of the criteria set forth in this section by a comparable group of nonenrollees in the prime sponsor's area.

(Pub. L. 93-203, title III, § 316, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1973.)

PRIOR PROVISIONS

A prior section 884, Pub. L. 93-203, title III, § 314, Dec. 28, 1973, 87 Stat. 863, which related to a continuous study with respect to the removal of artificial barriers to employment and advancement, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 885. Voucher demonstration projects

(a) Establishment of projects by Secretary

The Secretary shall establish a special voucher project to demonstrate the efficacy of providing vouchers to economically disadvantaged persons who are unemployed or underemployed. Such vouchers shall entitle private employers who provide employment with or without training to such individuals to payment in amounts equal to the value of the voucher pursuant to regulations of the Secretary.

(b) Establishment of regulations respecting criteria, eligibility of participants, etc.

In establishing regulations under this section, the Secretary shall establish criteria, eligibility of participants and portability of vouchers between qualifying employers, the value of vouchers, the guarantees against displacement of eligible workers, and such other factors as the Secretary deems appropriate.

(c) Report to Congress

Not later than March 1, 1981, the Secretary shall prepare and submit to the Congress a report evaluating the effectiveness of the demonstration projects conducted pursuant to this section, together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate. The information required by this subsection may be included in the appropriate annual report of the Secretary under section 829(a) of this title.

(Pub. L. 93-203, title III, § 317, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1973.)

PRIOR PROVISIONS

A prior section 885, Pub. L. 93-203, title III, § 315, Dec. 28, 1973, 87 Stat. 863, which related to training and technical assistance, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 882 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 886 of this title.

§ 886. Employment and training activities to stimulate local private economic development

(a) The Secretary is authorized to carry out a special experimental program to link the employment and training activities of prime sponsors to a workable strategy for stimulating local private economic development and replacement of declining industries. Any determination concerning the nature of skills to be provided in training and retraining programs shall be made after consultation with agencies charged with fostering the growth or introduction of industries in a given labor market. This experiment may include use of vouchers as authorized in section 885 of this title.

(b) The Secretary shall take whatever action is necessary to assure that any experimental program conducted under this section is coordinated with Federal, State, regional, and local agencies responsible for administering and receiving funds from the Economic Development Administration pursuant to sections 3141 and 3142 of title 42 and from the Small Business Investment Act of 1958 [15 U.S.C. 661 et seq.]. Activities under any such program shall be consistent with the overall economic development plan for the area required by section 3142(b)(10) of title 42.

(Pub. L. 93-203, title III, § 318, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1974.)

REFERENCES IN TEXT

The Small Business Investment Act of 1958, referred to in subsec. (b), is Pub. L. 85-699, Aug. 21, 1958, 72 Stat. 689, as amended, which is classified principally to chapter 14B (§ 661 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the

Code, see Short Title note set out under section 661 of Title 15 and Tables.

SUBCHAPTER IV—YOUTH PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 822, 825, 846, 855, 964, 970 of this title.

§ 891. Congressional statement of purpose

It is the purpose of this subchapter to provide a broad range of coordinated employment and training programs for eligible youth in order to provide effectively for comprehensive employment and training services to improve their future employability and to explore and experiment with alternative methods for accomplishing such purposes.

(Pub. L. 93-203, title IV, § 401, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1974.)

PRIOR PROVISIONS

A prior section 891, Pub. L. 93-203, title III, § 321, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 632, which provided for a congressional declaration of purpose with respect to youth employment, training and demonstration programs, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 893 of this title.

A prior section 401 of Pub. L. 93-203, title IV, Dec. 28, 1973, 87 Stat. 863, which provided for a congressional statement of purpose with respect to the Job Corps program, was classified to former section 911 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

Provisions similar to those comprising this section were contained in former section 874 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 892. Definitions

(a) For purposes of parts B and C, the term "eligible youth" means an economically disadvantaged youth who is (1) either unemployed, underemployed, or in school, and (2) either age 16 to 21 inclusive, or if authorized under regulations of the Secretary, age 14 to 15 inclusive. Nothing in this section shall be construed to prohibit the provision of day care for the children of eligible youths.

(b) For the purposes of subpart 1 of part A, the term "eligible youth" means a youth between the ages of 16 and 19 inclusive, the income of whose family is at or below the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget.

(Pub. L. 93-203, title IV, § 402, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1974.)

PRIOR PROVISIONS

A prior section 892, Pub. L. 93-203, title III, § 325, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 632, which related to the authorization of youth incentive entitlement pilot projects, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 894 of this title.

A prior section 402 of Pub. L. 93-203, title IV, Dec. 28, 1973, 87 Stat. 864, which related to the establishment of a Job Corps, was classified to former section 912 of this title, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

Section 892a of this title, Pub. L. 93-203, title III, § 326, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 633, relating to guarantees of employment opportunities, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 895 of this title.

Section 892b of this title, Pub. L. 93-203, title III, § 327, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 633, relating to the selection of prime sponsors, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 896 of this title.

Section 892c of this title, Pub. L. 93-203, title III, § 328, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 635, relating to special provisions for development of a participants role as a member of the community and for restrictions on use of funds, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 897 of this title.

Section 892d of this title, Pub. L. 93-203, title III, § 329, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 635, relating to reports to Congress, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 898 of this title.

PART A—YOUTH EMPLOYMENT DEMONSTRATION PROGRAMS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 826, 829, 849 of this title.

§ 893. Congressional statement of purpose

It is the purpose of this part to establish a variety of employment, training, and demonstration programs to explore methods of dealing with the structural unemployment problems of the Nation's youth. The basic purpose of the demonstration programs shall be to test the relative efficacy of different ways of dealing with these problems in different local contexts, but this basic purpose shall not preclude the funding of programs dealing with the immediate difficulties faced by youths who are in need of, and unable to find jobs. It is explicitly not the purpose of this part to provide make-work opportunities for unemployed youth; instead, it is the purpose to provide youth, and particularly economically disadvantaged youth, with opportunities to learn and earn that will lead to meaningful employment or self-employment opportunities after they have completed the program.

(Pub. L. 93-203, title IV, § 411, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1974.)

PRIOR PROVISIONS

A prior section 893, Pub. L. 93-203, title III, § 331, added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 636, which provided for a congressional declaration of purpose with respect to a program of community conservation and improvement projects, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 899 of this title.

A prior section 411 of Pub. L. 93-203, title IV, Dec. 28, 1973, 87 Stat. 868, which related to activities designed to establish a mutually beneficial relationship between Job Corps centers and nearby communities, was classified to former section 921 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

Provisions similar to those comprising this section were contained in former section 891 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

Section 893a of this title, Pub. L. 93-203, title III, § 332, as added Pub. L. 95-93, title II, § 201, Aug. 5,

1977, 91 Stat. 636, which defined terms used in provisions covering youth community conservation and improvement projects, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 900 of this title.

Section 893b of this title, Pub. L. 93-203, title III, § 333, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 636, which related to the allocation of funds with respect to youth community conservation and improvement projects, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 901 of this title.

Section 893c of this title, Pub. L. 93-203, title III, § 334, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 637, which authorized the Secretary to enter into agreements with eligible applicants to pay the costs of community conservation and improvement youth employment projects, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 902 of this title.

Section 893d of this title, Pub. L. 93-203, title III, § 335, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 637, which related to applications for community conservation and improvement youth employment projects, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 903 of this title.

Section 893e of this title, Pub. L. 93-203, title III, § 336, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 637, which related to the submittal of proposed agreements to the Secretary, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 904 of this title.

Section 893f of this title, Pub. L. 93-203, title III, § 337, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 638, which related to the authority of the Secretary to approve or deny project applications, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 905 of this title.

Section 893g of this title, Pub. L. 93-203, title III, § 338, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 639, which related to a work limitation with respect to eligible youths involved in community conservation and improvement projects, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 906 of this title.

SUBPART 1—YOUTH INCENTIVE ENTITLEMENT PILOT PROJECTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 892, 916 of this title.

§ 894. Entitlement pilot projects authorized

(a) Arrangements with selected prime sponsors

The Secretary shall enter into arrangements with prime sponsors selected in accordance with the provisions of this subpart for the purpose of demonstrating the efficacy of guaranteeing otherwise unavailable part-time employment, or combination of part-time employment and training, for economically disadvantaged youth between the ages of 16 and 19, inclusive, during the school year who resume or maintain attendance in secondary school for the purpose of acquiring a high school diploma or in a program which leads to a certificate of high school equivalency and full-time employment or part-time employment and training during the summer months to each such youth.

(b) Employment guarantees by prime sponsors

Each prime sponsor who applies for and is selected by the Secretary to carry out a pilot project under this subpart shall guarantee the employment described in subsection (a) of this section to each such unemployed youth described in subsection (a) of this section who resides within the area or a designated part thereof served by the prime sponsor and who applies to that prime sponsor for employment. The Secretary shall provide to each prime sponsor, from funds appropriated for carrying out this subpart, in combination with any funds made available by such prime sponsor according to an agreement made pursuant to section 896(a)(4)(F) of this title, the amount to which that prime sponsor is entitled under subsection (c) of this section.

(c) Costs of employment

Each prime sponsor shall be entitled to receive, for each youth who is provided employment by that prime sponsor, the costs associated with providing such employment. Such costs shall take into account funds made available by such prime sponsor under section 896(a)(4)(F) of this title.

(Pub. L. 93-203, title IV, § 416, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1975.)

PRIOR PROVISIONS

A prior section 894 of this title, Pub. L. 93-203, title III, § 341, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 639, which provided for a congressional declaration of purpose with respect to youth employment and training programs, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 907 of this title.

A prior section 416 of Pub. L. 93-203, title IV, Dec. 28, 1973, 87 Stat. 872, which related to the Federal status of enrollees in the Job Corps, was classified to former section 926 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

Provisions similar to those comprising this section were contained in former section 892 of this title prior to the general revision of Pub. L. 93-203, by Pub. L. 95-524.

Section 894a of this title, Pub. L. 93-203, title III, § 342, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 639, which related to the programs authorized for youth employment and training, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 908 of this title.

Section 894b of this title, Pub. L. 93-203, title III, § 343, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 640, which related to allocation of funds with respect to youth employment and training programs, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 909 of this title.

Section 894c of this title, Pub. L. 93-203, title III, § 344, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 642, which related to eligible applicants for purposes of the youth employment and training programs, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 910 of this title.

Section 894d of this title, Pub. L. 93-203, title II, § 345, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 642, which related to eligible participants for programs for employment and training of youth, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 911 of this title.

Section 894e of this title, Pub. L. 93-203, title III, § 346, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 642, which related to conditions for receipt of financial assistance for programs authorized under former section 894a of this title, was omitted

from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 912 of this title.

Section 894f of this title, Pub. L. 93-203, title III, § 347, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 645, which related to a review of plans by the Secretary, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 913 of this title.

Section 894g of this title, Pub. L. 93-203, title III, § 348, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 645, which related to discretionary projects of the Secretary dealing with unemployment problems of youth, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 914 of this title.

§ 895. Employment guarantees

Employment opportunities guaranteed under this subpart shall take the form of any one of the following or any combination thereof:

(1) Part-time employment or training or combination thereof during the school year, not to exceed an average of 20 hours per week for each youth employed, and not to last less than 6 months nor more than 9, on projects operated by community-based organizations of demonstrated effectiveness which have a knowledge of the needs of disadvantaged youth; local educational agencies; institutions of higher education; nonprofit private organizations or institutions engaged in public service; nonprofit voluntary youth organizations; nonprofit private associations, such as labor organizations, educational associations, business, cultural, or other private associations; units of general local government; or special purpose political subdivisions either having the power to levy taxes and spend funds or serving such special purpose in 2 or more units of general local government.

(2) Part-time employment on an individual basis in any of the institutions and under the same conditions provided for in clause (1).

(3) Part-time employment on either a project or individual basis in any of the institutions and under the same conditions as provided in clause (1) which includes as part of the employment on-the-job or apprenticeship training.

(4) Full-time employment during the summer months, not to exceed 40 hours per week for each youth employed, and not to last less than 8 weeks in any of the institutions described in clause (1).

(Pub. L. 93-203, title IV, § 417, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1975.)

Prior Provisions

A prior section 895 of this title, Pub. L. 93-203, title III, § 351, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 646, which provided for authorization of appropriations and distribution of funds with respect to youth employment demonstration programs, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 916 of this title.

A prior section 417 of Pub. L. 93-203, title IV, Dec. 28, 1973, 87 Stat. 873, which related to special limitations with respect to the Job Corps, was classified to former section 927 of this title, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

Provisions similar to those comprising this section were contained in former section 892a of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

Section 895a of this title, Pub. L. 93-203, title III, § 352, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 646, which related to rates of pay, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 917 of this title.

Section 895b of this title, Pub. L. 93-203, title III, § 353, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 647, which related to special conditions with respect to financial assistance to youth employment, training, and demonstration programs, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 918 of this title.

Section 895c of this title, Pub. L. 93-203, title III, § 354, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 648, which related to special provisions for youth community conservation and improvement projects and for youth employment and training programs, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 919 of this title.

Section 895d of this title, Pub. L. 93-203, title III, § 355, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 649, which related to the grant or award of academic credit and counseling and placement services, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 920 of this title.

Section 895e of this title, Pub. L. 93-203, title III, § 356, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 649, which related to the affect of earnings received under the youth employment, training, and demonstration programs in determination of need under other programs, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 921 of this title.

Section 895f of this title, Pub. L. 93-203, title III, § 357, as added Pub. L. 95-93, title II, § 201, Aug. 5, 1977, 91 Stat. 649, which related to general provisions, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 922 of this title.

Section Referred to in Other Sections

This section is referred to in section 896 of this title.

§ 896. Selecting prime sponsors

(a) In selecting prime sponsors to operate youth incentive entitlement projects, the Secretary shall—

(1) select prime sponsors from areas with differing socioeconomic and regional circumstances such as differing unemployment rates, school dropout rates, urban and rural variations, size, and other such factors designed to test the efficacy of a youth job entitlement in a variety of differing locations and circumstances;

(2) take into consideration the extent to which the prime sponsors devote funds made available under subchapter II of this chapter and part C of this subchapter for the purpose of carrying out a youth incentive entitlement project or for supportive services;

(3) take into consideration the extent to which new and different classifications, occupations, or restructured jobs are created for youth;

(4) select only prime sponsors which submit proposals which include—

(A) a description of the procedure to be utilized by the prime sponsor to publicize, consider, approve, audit, and monitor youth

incentive projects or jobs funded by the prime sponsor under this part, including copies of proposed application materials, as well as examples of audit and client characteristics reports;

(B) a statement of the estimated number of economically disadvantaged youth to be served by the prime sponsor, and assurances that only such disadvantaged youth will be served;

(C) assurances that the provisions of sections 917 and 918 of this title are met relating to wage provisions and special conditions;

(D) assurances that the prime sponsor has consulted with public and private nonprofit educational agencies including vocational and postsecondary education institutions and other agencies which offer high school equivalency programs; public employers, including law enforcement and judicial agencies; State and local public assistance agencies; labor organizations; voluntary youth groups; community-based organizations; organizations of demonstrated effectiveness with a special knowledge of the needs of such disadvantaged youth; and with the private sector in the development of the plan, and assurances that arrangements are made with appropriate groups to assist the prime sponsor in carrying out the purposes of this subpart;

(E) assurances that arrangements are made with the State employment security agencies to carry out the purposes of this subpart;

(F) an agreement that funds available under subchapter II of this chapter for economically disadvantaged youth employment programs and funds available for the summer youth program under part C of this subchapter for youth eligible under subsection (a) of this section will be used in support of the project authorized under this subpart;

(G) assurances that the employment of eligible youth meets the requirements of eligible activities under section 897 of this title;

(H) assurances that participating youth shall not be employed more than an average of 20 hours per week during the school year and not more than 40 hours per week during the summer;

(I) assurances that a participating youth is not a relative of any person with responsibility for hiring a person to fill that job;

(J) assurances that whenever employment involves additional on-the-job, institutional, or apprenticeship training provided by the employer, and if such training is not paid for in full or in part by the prime sponsor under any other program authorized under this chapter, wages may be paid in accordance with the provisions of subsection (b) of section 214 of this title, and with the balance being applied to the cost of training;

(K) assurances that arrangements have been made with the appropriate local education agency or with the institution offering a certified high school equivalency program that such youth is enrolled and meeting the minimum academic and attendance requirements of that school or education program and with employers that such youth meet the minimum work and attendance requirements of such employment and that any employment guarantee is conditioned on such enrollment;

(L) assurances that special efforts will be made to recruit youth from families receiving public assistance, including parents of dependent children who meet the age requirement of this subpart; and

(M) assurances that the prime sponsor will make available the data necessary for the Secretary to prepare the reports required by section 898 of this title.

(b) In approving a prime sponsor to operate a youth incentive entitlement pilot project under this subpart the Secretary may also test the efficacy of any such project involving—

(1) the use of a variety of subsidies to private for-profit employers, notwithstanding the provisions of sections 895 and 897(a) of this title, to encourage such employers to provide employment and training opportunities under this subpart, but no such subsidy shall exceed the net cost to the employer of the wages paid and training provided;

(2) arrangements with unions to enable youth to enter into apprenticeship training as part of the employment provided under this subpart;

(3) a variety of administrative mechanisms to facilitate the employment of youths under an entitlement arrangement;

(4) the inclusion of economically disadvantaged youths between the ages of 19 and 25 who have not received their high school diploma;

(5) the inclusion of occupational and career counseling, outreach, career, exploration, and on-the-job training and apprenticeship as part of the employment entitlement; and

(6) the inclusion of youth under the jurisdiction of the juvenile or criminal justice system with the approval of the appropriate authorities.

(Pub. L. 93-203, title IV, § 418, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1976.)

PRIOR PROVISIONS

A prior section 418 of Pub. L. 93-203, title IV, Dec. 28, 1973, 87 Stat. 873, which related to prohibitions respecting political discrimination and political activity, was classified to former section 928 of this title and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See sections 833 and 834 of this title.

Provisions similar to those comprising this section were contained in former section 892b of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 894 of this title.

§ 897. Special provisions for development of participants role as a member of the community and for restrictions on use of funds

(a) Employment and training under this subpart shall develop the participant's role as a

meaningful member of the community, and may include employment and training in such fields as environmental quality, health care, education, self-employment, social services, public safety, crime prevention and control, transportation, recreation, neighborhood improvement, rural development, conservation, beautification, and community improvement projects.

(b) No funds for employment under this subpart shall be used to provide public services through a nonprofit organization, association, or institution, or a nonprofit private institution of higher education or any other applicant, which were previously provided by a political subdivision or local educational agency in the area served by the project of where the employment and training takes place, and no funds will be used under this subpart to provide such services through such an organization or institution which are customarily provided only by a political subdivision or local educational agency in the area served by such project or where the employment and training takes place.

(Pub. L. 93-203, title IV, § 419, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1978.)

PRIOR PROVISIONS

A prior section 419 of Pub. L. 93-203, title IV, Dec. 28, 1973, 87 Stat. 873; Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845, which provided for administrative provisions, was classified to former section 929 of this title and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 940 of this title.

Provisions similar to those comprising this section were contained in former section 892c of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 896 of this title.

§ 898. Reports

The Secretary shall report to the Congress not later than March 15, 1979, on his interim findings on the efficacy of a youth incentive entitlement. The Secretary shall submit another report not later than December 31, 1979, concerning the youth incentive entitlement projects authorized under this subpart. Included in such reports shall be findings with respect to—

(1) the number of youths enrolled at the time of the report;

(2) the cost of providing employment opportunities to such youths;

(3) the degree to which such employment opportunities have caused out-of-school youths to return to school or others to remain in school;

(4) the number of youths provided employment in relation to the total which might have been eligible;

(5) the kinds of jobs provided such youths and a description of the employers—public and private—providing such employment;

(6) the degree to which on-the-job or apprenticeship training has been offered as part of the employment;

(7) the estimated cost of such a program if it were to be extended to all areas;

(8) the effect such employment opportunities have had on reducing youth unemployment in the areas of the prime sponsors operating a project; and

(9) the impact of job opportunities provided under the project on other job opportunities for youths in the area.

(Pub. L. 93-203, title IV, § 420, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1978.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 892d of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 896 of this title.

SUBPART 2—YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 912, 916, 919 of this title.

§ 899. Congressional statement of purpose

It is the purpose of this subpart to establish a program of community conservation and improvement projects to provide employment, work experience, skill training, and opportunities for community service to eligible youths, for a period not to exceed 12 months, supplementary to but not replacing opportunities available under subchapter II of this chapter.

(Pub. L. 93-203, title IV, § 421, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1979.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 893 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 900. Definitions

As used in this subpart, the term—

(1) "eligible applicant" means any prime sponsor qualified under section 811 of this title, sponsors of Native American programs qualified under section 872(c)(1) of this title, and sponsors of migrant and seasonal farmworkers programs qualified under section 873 of this title;

(2) "project applicant" shall have the same meaning as in section 802(20) of this title;

(3) "eligible youths" means individuals who are unemployed and, at the time of entering employment under this subpart, are ages sixteen to nineteen, inclusive; and

(4) "community improvement projects" means projects providing work which would not otherwise be carried out, including, but not limited to, the rehabilitation or improvement of public facilities; neighborhood improvements; weatherization and basic repairs to low-income housing; energy conservation including solar energy techniques, especially those utilizing materials, and supplies available without cost; removal of architectural barriers to access, by handicapped persons, to public facilities; and conservation, mainte-

nance, or restoration of natural resources on publicly held lands other than Federal lands.

(Pub. L. 93-203, title IV, § 422, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1979.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 893a of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 901. Allocation of funds

(a) Amount allocated to States

Funds available to carry out this subpart for any fiscal year shall be allocated in such a manner that not less than 75 percent of such funds shall be allocated among the States on the basis of the relative number of unemployed persons within each State as compared to all States, except that not less than one-half of 1 percent of such funds shall be allocated for projects under this subpart within any one State and not less than one-half of 1 percent of such funds shall be allocated in the aggregate for projects in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b) Amount allocated for projects of Native American eligible youths and eligible youths in migrant and seasonal farmworker families

Of the funds available for this subpart, 2 percent shall be available for projects for Native American eligible youths, and 2 percent shall be available for projects for eligible youths in migrant and seasonal farmworker families.

(c) Allocation of remaining funds

The remainder of the funds available for this subpart shall be allocated as the Secretary deems appropriate.

(Pub. L. 93-203, title IV, § 423, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1979.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 893b of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 909 of this title.

§ 902. Community conservation and improvement youth employment projects

The Secretary is authorized in accordance with the provisions of this subpart, to enter into agreements with eligible applicants to pay the costs of community conservation and improvement youth employment projects to be carried out by project applicants employing eligible youths and appropriate supervisory personnel.

(Pub. L. 93-203, title IV, § 424, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1980.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 893c of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 903. Project applications

(a) Project applicants shall submit applications for funding of projects under this subpart to the appropriate eligible applicant.

(b) In accordance with regulations prescribed by the Secretary, each project application shall—

(1) provide a description of the work to be accomplished by the project, the jobs to be filled, and the approximate duration for which eligible youths would be assigned to such jobs;

(2) describe the wages or salaries to be paid individuals employed in jobs assisted under this subpart;

(3) set forth assurances that there will be an adequate number of supervisory personnel on the project and that the supervisory personnel are adequately trained in skills needed to carry out the project and can instruct participating eligible youths in skills needed to carry out the project;

(4) set forth assurances that any income generated by the project will be applied toward the cost of the project;

(5) set forth assurances for acquiring such space, supplies, materials, and equipment as necessary, including reasonable payment for the purchase or rental thereof;

(6) set forth assurances that, to the maximum extent feasible, projects carried out under this subpart shall be labor intensive; and

(7) set forth such other assurances, arrangements, and conditions as the Secretary deems appropriate to carry out the purposes of this subpart.

(Pub. L. 93-203, title IV, § 425, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1980.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 893d of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 904. Proposed agreements

(a) Submittal by applicant to Secretary

(1) Each eligible applicant desiring funds under this subpart shall submit a proposed agreement to the Secretary, together with all project applications approved by the eligible applicant and all project applications approved by any program agent within the area served by the eligible applicant. With its transmittal of the proposed agreement, the eligible applicant shall provide descriptions of the project applications approved by the eligible applicant and by any program agent within the area served by the eligible applicant, accompanied by the recommendations of the eligible applicant concerning the relative priority attached to each project.

(2) The functions of a program agent shall be as set forth in section 966(b)(2) of this title.

(b) Contents

The proposed agreement submitted by any eligible applicant shall—

(1) describe the method of recruiting eligible youths, including a description of how

such recruitment will be coordinated with plans under other provisions of this chapter, including arrangements required by section 815 of this title, and also including a description of arrangements with school systems, the public employment service (including school cooperative programs), the courts of jurisdiction for status and youthful offenders, and a description of arrangements with public assistance agencies on the employment of youth from families receiving public assistance, including parents of dependent children;

(2) provide a description of job training and skill development opportunities that will be made available to participating eligible youths, as well as a description of plans to coordinate the training and work experience with school-related programs, including the awarding of academic credit; and

(3) set forth such other assurances as the Secretary may require to carry out the purposes of this subpart.

(c) Conditions for submittal

(1) In order for a project application submitted by a project applicant to be submitted to the Secretary by any eligible applicant, copies of such application shall have been submitted at the time of such application to the prime sponsor's planning council established under section 819 of this title (or an appropriate planning organization in the case of sponsors of Native American programs under section 872 of this title or migrant and seasonal farmworker programs under section 873 of this title) for the purpose of affording such council (and the youth council established under section 912 of this title) an opportunity to submit comments and recommendations with respect to that application to the eligible applicant. No member of any council (or organization) shall cast a vote on any matter in connection with a project in which that member, or any organization with which that member is associated, has a direct interest.

(2) Consistent with procedures established by the eligible applicant in accordance with regulations which the Secretary shall prescribe, the eligible applicant shall not disapprove a project application submitted by a project applicant unless it has first considered any comments and recommendations made by the appropriate council (or organization) and unless it has provided such applicant and council (or organization) with a written statement of its reasons for such disapproval.

(Pub. L. 93-203, title IV, § 426, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1980.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 893e of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 905. Approval of agreements

(a) The Secretary may approve or deny on an individual basis any of the project applications submitted with any opposed agreement.

(b) No funds shall be made available to any eligible applicant except pursuant to an agreement entered into between the Secretary and the eligible applicant which provides assurances satisfactory to the Secretary that—

(1) the standards set forth in subpart 4 will be satisfied;

(2) projects will be conducted in such manner as to permit eligible youths employed in the project who are in school to coordinate their jobs with classroom instruction and, to the extent feasible, to permit such eligible youths to receive credit from the appropriate educational agency, postsecondary institution, or particular school involved; and

(3) meet such other assurances, arrangements, and conditions as the Secretary deems appropriate to carry out the purposes of this subpart.

(Pub. L. 93-203, title IV, § 427, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1981.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 893f of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 906. Work limitation

No eligible youth shall be employed for more than twelve months in work financed under this subpart, except as prescribed by the Secretary.

(Pub. L. 93-203, title IV, § 428, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1981.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 893g of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SUBPART 3—YOUTH EMPLOYMENT AND TRAINING PROGRAMS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in sections 802, 916, 919 of this title.

§ 907. Congressional statement of purpose

It is the purpose of this subpart to establish programs designed to make a significant long-term impact on the structural unemployment problems of youth, supplementary to but not replacing programs and activities available under subchapter II of this chapter, to enhance the job prospects and career opportunities of young persons, including employment, community service opportunities, and such training and supportive services as are necessary to enable participants to secure suitable and appropriate unsubsidized employment in the public and private sectors of the economy. To the maximum extent feasible, training and employment opportunities afforded under this subpart shall be interrelated and mutually reinforcing so as to achieve the goal of enhancing the job prospects and career opportunities of youths served under this subpart.

(Pub. L. 93-203, title IV, § 431, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1982.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 894 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 908. Programs authorized

(a) The Secretary is authorized to provide financial assistance to enable eligible applicants to provide employment opportunities and appropriate training and supportive services for eligible participants, including—

(1) useful work experience opportunities in a wide range of community betterment activities such as rehabilitation of public properties, assistance in the weatherization of homes occupied by low-income families, demonstrations of energy-conserving measures, including solar energy techniques (especially those utilizing materials and supplies available without cost), park establishment and upgrading, neighborhood revitalization, conservation and improvements, removal of architectural barriers to access, by handicapped individuals, to public facilities, and related activities;

(2) productive employment and work experience in fields such as education, health care, neighborhood transportation services, crime prevention and control, environmental quality control (including integrated pest management activities), preservation of historic sites, and maintenance of visitor facilities;

(3) appropriate training and services to support the purpose of this subpart, including—

(A) outreach, assessment, and orientation;

(B) counseling, including occupational information and career counseling;

(C) activities promoting education to work transition;

(D) development of information concerning the labor market, and provision of occupational, educational, and training information;

(E) services to youth to help them obtain and retain employment;

(F) literacy training and bilingual training;

(G) attainment of certificates of high school equivalency;

(H) job sampling, including vocational exploration in the public and private sector;

(I) institutional and on-the-job training, including development of basic skills and job skills;

(J) transportation assistance;

(K) child care and other necessary supportive services;

(L) job restructuring to make jobs more responsive to the objectives of this subpart, including assistance to employers in developing job ladders or new job opportunities for youths, in order to improve work relationships between employers and youths;

(M) community-based central intake and information services for youth;

(N) job development, direct placement, and placement assistance to secure unsubsidized employment opportunities for youth to the maximum extent feasible, and referral to employability development programs;

(O) programs to overcome sex-stereotyping in job development and placement; and

(P) programs and outreach mechanisms to increase the labor force participation rate among minorities and women.

(b) In order to carry out this subpart, a Governor or a prime sponsor may enter into contracts with project applicants (as defined in section 802(20) of this title) or employers organized for profit, but payments to such employers shall not exceed the amounts permitted under section 823(*l*) of this title, or may operate programs directly if, after consultation with community-based organizations and nonprofit groups, a Governor or prime sponsor determines that such direct operation will promote the purposes of this subpart.

(Pub. L. 93-203, title IV, § 432, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1982.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 894a of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 849, 909, 911, 912, 913 of this title.

§ 909. Allocation of funds

(a) Amounts allocated to prime sponsors, Governors, programs for Native American eligible youths and eligible youths in migrant and seasonal farmworker families, and discretionary projects of Secretary

From the sums available for this subpart—

(1) an amount equal to 75 percent of such funds shall be made available to prime sponsors for programs authorized under section 908 of this title;

(2) an amount equal to 5 percent of the amount available for this part shall be made available to Governors for special statewide youth services under subsection (c) of this section;

(3) an amount equal to not less than 2 percent of the amount available for this part shall be made available for employment and training programs for Native American eligible youths (deducting such amounts as are made available for such purposes under section 901(b) of this title);

(4) an amount equal to not less than 2 percent of the amount available for this part shall be made available for employment and training programs for eligible youths in migrant and seasonal farmworker families (deducting such amounts as are made available for such purposes under section 901(b) of this title); and

(5) the remainder of the funds available for this subpart shall be available for the Secretary's discretionary projects authorized under section 914 of this title.

(b) Amounts allocated to States

(1) Amounts available for each of the purposes set forth in paragraphs (1) and (2) of subsection (a) of this section shall be allocated among the States in such a manner that—

(A) 37.5 percent thereof shall be allocated in accordance with the relative number of unemployed persons within each State as compared to the total number of such unemployed persons in all States;

(B) 37.5 percent thereof shall be allocated in accordance with the relative number of unemployed persons residing in areas of substantial unemployment (as defined in section 802(2) of this title) within each State as compared to the total number of unemployed persons residing in all such areas in all States; and

(C) 25 percent thereof shall be allocated in accordance with the relative number of persons in families with an annual income below the low-income level (as defined in section 802(16) of this title) within each State as compared to the total number of such persons in all States.

(2) In determining allocations under this subsection the Secretary shall use what the Secretary determines to be the best available data.

(3) Amounts available to prime sponsors under paragraph (1) of subsection (a) of this section shall, out of the total amounts allocated to each State under such paragraph, be allocated by the Secretary among prime sponsors within each State, in accordance with the factors set forth in paragraph (1) of this subsection.

(c) Governors' allocation to be used in accordance with special statewide youth services plan

The amount available to the Governor of each State under paragraph (2) of subsection (a) of this section shall be used in accordance with a special statewide youth services plan, approved by the Secretary, for such purposes as—

(1) providing financial assistance for employment and training opportunities for eligible youths who are under the supervision of the State;

(2) providing labor market and occupational information to prime sponsors and local educational agencies, without reimbursement;

(3) providing for the establishment of cooperative efforts between State and local institutions, including (A) occupational and career guidance and counseling and placement services for in-school and out-of-school youth; and (B) coordination of statewide activities carried out under the Career Education Incentive Act [20 U.S.C. 2601 et seq.];

(4) providing for the establishment of cooperative efforts between State and local institutions, including occupational and career guidance and counseling and placement services for in-school and out-of-school youth;

(5) providing financial assistance for expanded and experimental programs in apprenticeship trades, or development of new apprenticeship arrangements, in concert with appropriate businesses and labor unions or State apprenticeship councils; and

(6) carrying out special model employment and training programs and related services between appropriate State agencies and prime sponsors in the State, or any combination of such prime sponsors, including subcontractors selected by prime sponsors, with particular emphasis on experimental job training within the private sector.

(d) Restrictions on allocations to prime sponsors

(1) Not less than 22 percent of the amount allocated to each prime sponsor under paragraph (1) of subsection (a) of this section shall be used for programs under this subsection.

(2) The amount available to each prime sponsor under paragraph (1) shall be used for programs for in-school youth carried out pursuant to agreements between prime sponsors and local educational agencies. Each such agreement shall describe in detail the employment opportunities and appropriate training and supportive services which shall be provided to eligible participants who are enrolled or who agree to enroll in a full-time program leading to a secondary school diploma, a junior or community college degree, or a technical or trade school certificate of completion. Each such agreement shall contain provisions to assure that funds received pursuant to the agreement will not supplant State and local funds expended for the same purpose.

(e) Special consideration to community based organizations

Programs receiving assistance under paragraph (1) of subsection (a) of this section shall give special consideration in carrying out programs authorized under section 908 of this title, to community-based organizations (as defined in section 802(4) of this title) which have demonstrated effectiveness in the delivery of employment and training services.

(Pub. L. 93-203, title IV, § 433, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1983.)

REFERENCES IN TEXT

The Career Education Incentive Act, referred to in subsec. (c)(3), is Pub. L. 95-207, Dec. 13, 1977, 91 Stat. 1464, as amended, which is classified principally to chapter 46 (§ 2601 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 20 and Tables.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 894b of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 912 of this title.

§ 910. Eligible applicants

Eligible applicants for purposes of this subpart, except section 914 of this title, are prime sponsors qualified under section 811 of this title, sponsors of Native American programs qualified under section 872(c)(1) of this title, and sponsors of migrant and seasonal farmworker programs qualified under section 873 of this title.

(Pub. L. 93-203, title IV, § 434, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1985.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 894c of this title

prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 911. Eligible participants

Eligible participants for programs authorized under this subpart shall be persons who—

(1)(A) are unemployed or are underemployed or are in school and are ages 16 to 21, inclusive; or (B) if authorized under such regulations as the Secretary may prescribe, are in school and are ages 14 to 15, inclusive; and

(2) are not members of households which have current gross family income, adjusted to an annualized basis (exclusive of unemployment compensation and all Federal, State, and local income-tested or needs-tested public payments) at a rate exceeding 85 percent of the lower living standard income level, except that, pursuant to regulations which the Secretary shall prescribe, persons who do not meet the requirements of this subparagraph but who are otherwise eligible under this subpart may participate in appropriate activities of the type authorized under section 908(a) of this title.

Notwithstanding the provisions of subsection (a) of this section, 10 percent of the funds available for this subpart may be used for programs which include youths of all economic backgrounds to test the desirability of including youths of all economic backgrounds.

(Pub. L. 93-203, title IV, § 435, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1985.)

Prior Provisions

A prior section 911, Pub. L. 93-203, title IV, § 401, Dec. 28, 1973, 87 Stat. 863, which provided for a congressional statement of purpose with regard to the Job Corps, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 923 of this title.

Provisions similar to those comprising this section were contained in former section 894d of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 912. Conditions for receipt of financial assistance

(a) Assurances; submission of application

The Secretary shall not provide financial assistance to an eligible applicant for programs authorized under section 908 of this title unless such eligible applicant provides assurances that the standards set forth in subpart 4 will be met and unless such eligible applicant submits an application in such detail as the Secretary may prescribe. Each such application shall—

(1) describe the programs, projects, or activities to be carried out with such assistance, together with a description of the relationship and coordination of services provided to eligible participants under this subpart for similar services offered by local educational agencies, postsecondary institutions, the public employment service, the courts of jurisdiction for status and youthful offenders, other youth programs, community-based organizations, businesses and labor organizations consistent with the requirements of sections 823 and 843 of this title, and assurances that, to the maximum extent feasible, use will be made of any services that are available without reimbursement by the State employment service that will contribute to the achievement of the purposes of this subpart;

(2) include assurances that the application will be coordinated to the maximum extent feasible, with the plans submitted under subchapter II of this chapter, but services to youth under that subchapter shall not be reduced because of the availability of financial assistance under this subpart;

(3) provide assurances, satisfactory to the Secretary, that in the implementation of programs under this subpart, there will be coordination, to the extent appropriate, with local educational agencies, postsecondary institutions, community-based organizations, public assistance agencies, businesses, labor organizations, job training programs, other youth programs, the apprenticeship system, the courts of jurisdiction for status and youthful offenders programs, and (with respect to the referral of prospective youth participants to the program) the public employment service system;

(4) provide assurances that in the implementation of programs under this subpart, there will be coordination, to the extent feasible, with activities conducted under the Career Education Incentive Act [20 U.S.C. 2601 et seq.];

(5) provide assurance satisfactory to the Secretary that allowances will be paid in accordance with the provisions of section 826 of this title and such regulations as the Secretary may prescribe for this subpart;

(6) provide assurances that the application will be reviewed by the appropriate prime sponsor planning council in accordance with the provisions of section 819 of this title;

(7) provide assurances that a youth council will be established under the planning council of such eligible applicant (established under section 819 of this title) in accordance with subsection (b) of this section;

(8) provide assurances satisfactory to the Secretary that effective means will be provided through which youths participating in the projects, programs, and activities may acquire appropriate job skills and be given necessary basic education and training and that suitable arrangements will be established to document the competencies, including skills, education, and training, derived by each participant from programs established under this subpart;

(9) provide assurances that the eligible applicant will take appropriate steps to develop new job classifications, new occupations, and restructured jobs;

(10) provide that the funds available under section 909(d) of this title shall be used for programs authorized under section 908 of this title for in-school youth who are eligible participants through arrangements to be carried out by a local educational agency or agencies or postsecondary educational institution or institutions; and

(11) provide such other information and assurance as the Secretary may deem appropriate to carry out the purposes of this subpart.

(b) Recommendations by youth council to planning council

Each youth council established by an eligible applicant shall be responsible for making recommendations to the planning council established under section 819 of this title with respect to planning and review of activities conducted under this subpart and subpart 2. Each such youth council's membership shall include representation from the local educational agency, local vocational education advisory council, post-secondary educational institutions, business, unions, the public employment service, local government and nongovernment agencies and organizations which are involved in meeting the special needs of youths, the community served by such applicant, the prime sponsor, and youths themselves.

(c) Agreement between prime sponsor and local educational agency or agencies

No program of work experience for in-school youth supported under this subpart shall be entered into unless an agreement has been made between the prime sponsor and a local educational agency or agencies, after review by the youth council established under subsection (b) of this section. Each such agreement shall—

(1) set forth assurances that participating youths will be provided meaningful work experience, which will improve their ability to make career decisions and which will provide them with basic work skills needed for regular employment or self-employment not subsidized under this in-school program;

(2) be administered, under agreements with the prime sponsor, by a local educational agency or agencies or a postsecondary educational institution or institutions within the area served by the prime sponsor, and set forth assurances that such contracts have been reviewed by the youth council established under subsection (b) of this section;

(3) set forth assurances that job information, counseling, guidance, and placement services will be made available to participating youths and that funds provided under this program will be available to, and utilized by, the local educational agency or agencies to the extent necessary to pay the cost of school-based counselors to carry out the provisions of this in-school program;

(4) set forth assurances that jobs provided under this program will be certified by the participating educational agency or institution as relevant to the educational and career goals of the participating youths;

(5) set forth assurances that the eligible applicant will advise participating youths of the availability of other employment and training resources provided under this chapter, and other resources available in the local community to assist such youths in obtaining employment or self-employment;

(6) set forth assurances that youth participants will be chosen from among youths who are eligible participants who need work to remain in school, and shall be selected by the appropriate educational agency or institution, based on the certification for each participating youth by the school-based guidance counselor that the work experience provided is an appropriate component of the overall educational program of each youth.

(Pub. L. 93-203, title IV, § 436, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1985.)

REFERENCES IN TEXT

The Career Education Incentive Act, referred to in subsec. (a)(4), is Pub. L. 95-207, Dec. 13, 1977, 91 Stat. 1464, as amended, which is classified principally to chapter 46 (§ 2601 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 20 and Tables.

PRIOR PROVISIONS

A prior section 912, Pub. L. 93-203, title IV, § 402, Dec. 28, 1973, 87 Stat. 864, which related to the establishment of the Job Corps, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 924 of this title.

Provisions similar to those comprising this section were contained in former section 894e of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 849, 904 of this title.

§ 913. Review of plans by Secretary

The provisions of sections 812, 814, and 817 of this title shall apply to all programs and activities authorized under section 908 of this title.

(Pub. L. 93-203, title IV, § 437, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1987.)

PRIOR PROVISIONS

A prior section 913, Pub. L. 93-203, title IV, § 403, Dec. 28, 1973, 87 Stat. 864, which related to eligibility for enrollment in the Job Corps, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 925 of this title.

Provisions similar to those comprising this section were contained in former section 894f of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 914. Secretary's discretionary projects

(a)(1) The Secretary of Labor is authorized, either directly or by way of contract or other arrangement, with prime sponsors, public agencies, and private organizations to carry out innovative and experimental programs to test new approaches for dealing with the unemployment problems of youth and to enable eligible participants to prepare for, enhance their prospects for, or secure employment in occupations through which they may reasonably be expected to advance to productive working lives. Such programs shall include, where appropriate, cooperative arrangements with educational agencies to provide special programs and services for eligible participants enrolled in secondary schools, postsecondary educational institutions, and technical and trade schools, including job experience, counseling and guidance prior to the completion of secondary or postsecondary education and making available occupational, educational, and training information through statewide career information systems.

(2) In carrying out or supporting such programs, the Secretary shall consult, as appropri-

ate, with the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Director of the ACTION Agency, and the Director of the Community Services Administration.

(3) Funds available under this section may be transferred to other Federal departments and agencies to carry out functions delegated to them pursuant to agreements with the Secretary.

(b) The Secretary and prime sponsors, as the case may be, shall give special consideration in carrying out innovative and experimental programs assisted under this section to community-based organizations (as defined in section 802(4) of this title) which have demonstrated effectiveness in the delivery of employment and training services.

(Pub. L. 93-203, title IV, § 438, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1987.)

AMENDMENT OF SUBSECTION (a)(2)

Pub. L. 96-88, title V, § 508(h)(6), title VI, § 601(a), Oct. 17, 1979, 93 Stat. 693, 696, provided that, effective 180 days after the first Secretary of Education takes office, or on any earlier date on or after Oct. 1, 1979, as the President prescribes and publishes in the Federal Register, subsecs. (a)(2) of this section is amended by substituting "Education, Secretary of Health and Human Services" for "Health, Education, and Welfare".

PRIOR PROVISIONS

A prior section 914, Pub. L. 93-203, title IV, § 404, Dec. 28, 1973, 87 Stat. 864, which related to the screening and selection of applicants, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 926 of this title.

Provisions similar to those comprising this section were contained in former section 894g of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 909, 910, 915 of this title.

§ 915. Youth employment incentive and social bonus program

(a) Establishment in areas of high youth unemployment

From funds available under section 914 of this title the Secretary, through the use of prime sponsors where feasible, shall carry out in not more than 10 areas of high youth unemployment a youth employment incentive and social bonus demonstration program in order to test the efficacy of providing incentives for private industry to establish additional employment opportunities for youth without significant previous employment experience.

(b) Requirements respecting social bonus; eligibility

(1) The Secretary shall provide a social bonus of not more than $2,500 per year, in such amount and in such manner as the Secretary shall prescribe, to each employer who, pursuant to an agreement under this section, has employed 5 eligible youths for at least 35 hours per week for a period of not less than one year. The Secretary may allow for payment after 9 months in exceptional circumstances.

(2) A youth is eligible if such youth is economically disadvantaged, unemployed, and has no significant previous employment, as determined by the Secretary. No youth may participate in this program for more than 18 months.

(3) An employer may receive a social bonus for each such youth employed if—

(A) the employer has at least 5 eligible youths in the program; and

(B) the employer offers each youth in the program appropriate training, supportive services, and counseling.

If such training includes on-the-job training, the social bonus shall be in addition to any moneys received under the on-the-job training agreement.

(c) Selection of employers

In the selection of employers to carry out projects under this section, the Secretary shall give priority to urban poverty areas in which the State or local government provides for special tax treatment for any employer which locates or expands within the urban poverty area, and to any employer establishing a new facility in an urban poverty area.

(d) Restrictions on payment of social bonus

No payment for a social bonus may be made under this section unless—

(1) youth employed under this program are paid no less than the higher of the prevailing rate of pay for the occupation and job classification of individuals employed by the same employer, or the minimum wage under section 206(a)(1) of this title or the applicable State or local minimum wage; and

(2)(A) the conditions of this chapter are followed including sections 823(g)(1)(B) (relating to maintenance of effort), 823(f)(1) (relating to meaningful training and employment), and 825(a) of this title (relating to jobs in low wage industries); and

(B) the employment will not result in the filling of a job opening created by the action of the employer in laying off or terminating the employment of any regular employee in anticipation of filling the vacancy so created by hiring a youth employee in order to receive such social bonus.

(e) Restriction on other financial advantage from Federal Government

An employer who receives a social bonus under this section may not receive, apply for, or accept any financial advantage from the Federal Government for such employment other than as specified in this chapter.

(f) Coordination with other programs providing incentives or credits for employment of unemployed individuals; report to Congress

(1) The Secretary, in consultation with the Secretary of the Treasury and other appropriate Federal officials, shall assure that activities carried out under this section are coordinated with any appropriate other activities under which employers are provided incentives or credits by the Federal Government for the employment of comparably unemployed individuals.

(2) Not later than 36 months after October 27, 1978, the Secretary, in consultation with the Secretary of the Treasury and other appropriate Federal officials shall submit to the appropriate committees of the Congress a report on the results of activities carried out under this section in comparison to the results of such other activities.

(Pub. L. 93-203, title IV, § 439, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1988.)

PRIOR PROVISIONS

A prior section 915, Pub. L. 93-203, title IV, § 405, Dec. 28, 1973, 87 Stat. 865, which related to special limitations on screening and selection of applicants, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 927 of this title.

SUBPART 4—GENERAL PROVISIONS

SUBPART REFERRED TO IN OTHER SECTIONS

This subpart is referred to in section 905 of this title.

§ 916. Distribution of funds

Of the sums available for carrying out the provisions of this part—

(1) 15 percent shall be available for subpart 1;

(2) 15 percent shall be available for subpart 2; and

(3) 70 percent shall be available for subpart 3.

(Pub. L. 93-203, title IV, § 441, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1989.)

PRIOR PROVISIONS

A prior section 916, Pub. L. 93-203, title IV, § 406, Dec. 28, 1973, 87 Stat. 865, which related to enrollment and assignment in the Job Corps, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 928 of this title.

Provisions similar to those comprising this section were contained in former section 895 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 917. Rates of pay

Rates of pay under this part shall be no less than the higher of—

(1) the minimum wage under section 206(a)(1) of this title, but in the case of an individual who is 14 or 15 years old, the wage provided in accordance with the provisions of subsection (b) of section 214 of this title;

(2) the State or local minimum wage for the most nearly comparable employment, but in the case of an individual who is 14 or 15 years old the wage provided in accordance with the applicable provisions of the applicable State or local minimum wage law; or

(3) the prevailing rates of pay, if any, for occupations and job classifications of individuals employed by the same employer, except that—

(A) whenever the prime sponsor has entered into an agreement with the employer and the labor organization representing employees engaged in similar work in the same area to pay less than the rates provided in this paragraph, youths may be paid the rates specified in such agreement;

(B) whenever an existing job is reclassified or restructured, youths employed in such jobs shall be paid at rates not less than are provided under paragraph (1) or (2), but if a labor organization represents employees engaged in similar work in the same area, such youths shall be paid at rates specified in an agreement entered into by the appropriate prime sponsor, the employer, and the labor organization with respect to such reclassified or restructured jobs, and if no agreement is reached within thirty days after the initiation of the agreement procedure referred to in this clause the labor organization, prime sponsor, or employer may petition the Secretary, who shall establish appropriate wages for the reclassified or restructured positions, taking into account wages paid by the same employer to persons engaged in similar work;

(C) whenever a new or different job classification or occupation is established and there is no dispute with respect to such new or different job classification or occupation, youths to be employed in such jobs shall be paid at rates not less than are provided in paragraph (1) or (2), but if there is a dispute with respect to such new or different job classification or occupation, the Secretary, shall within 30 days after receipt of the notice of protest by the labor organization representing employees engaged in similar work in the same area, make a determination whether such job is a new or different job classification or occupation; and

(D) in the case of projects to which the provision of the Davis-Bacon Act [40 U.S.C. 276a—276a-5] (or any Federal law containing labor standards in accordance with the Davis-Bacon Act) otherwise apply, the Secretary is authorized, for projects financed under subparts 2 and 3 under $5,000, to prescribe rates of pay for youth participants which are not less than the applicable minimum wage but not more than the wage rate of the entering apprentice in the most nearly comparable apprenticeable trade, and to prescribe the appropriate ratio of journeymen to such participating youths.

(Pub. L. 93-203, title IV, § 442, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1989.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in par. (3)(D), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

PRIOR PROVISIONS

A prior section 917, Pub. L. 93-203, title IV, § 407, Dec. 28, 1973, 87 Stat. 866, which related to the establishment and operation of Job Corps centers, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 929 of this title.

Provisions similar to those comprising this section were contained in former section 895a of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 896 of this title.

§ 918. Special conditions

(a) Determination of Secretary as prerequisite to providing financial assistance under this part

The Secretary shall provide financial assistance under this part only if he determines that the activities to be assisted meet the requirements of this section.

(b) Requirements

The Secretary shall determine that the activities assisted under this part—

(1) will result in an increase in employment opportunities over those opportunities which would otherwise be available;

(2) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of nonovertime work or wages or employment benefits);

(3) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed;

(4) will not substitute jobs assisted under this part for existing federally assisted jobs;

(5) will not employ any youth when any other person is on layoff by the employer from the same or any substantially equivalent job in the same area; and

(6) will not be used to employ any person to fill a job opening created by the act of an employer in laying off or terminating employment of any regular employee, or otherwise reducing the regular work force not supported under this part, in anticipation of filling the vacancy so created by hiring a youth to be supported under this part.

(c) Promotional opportunities

The jobs in each promotional line will in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public services not subsidized under this chapter and no job will be filled in other than an entry level position in each promotional line until applicable personnel procedures and collective-bargaining agreements have been complied with.

(d) Notification to labor organizations

Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under the program for which an application is being developed for submission under this part, such organization shall be notified and shall be afforded a reasonable period of time prior to the submission of the application in which to make comments to the applicant and to the Secretary.

(e) Compliance with other standards

Activities funded under this part shall meet such other standards as the Secretary may deem appropriate to carry out the purposes of this chapter.

(f) Restriction on use of funds

Funds under this part shall not be used to provide full-time employment opportunities (1) for any person who has not attained the age with respect to which the requirement of compulsory education ceases to apply under the laws of the State in which such individual resides, except (A) during periods when school is not in session, and (B) where employment is undertaken in cooperation with school-related programs awarding academic credit for the work experience, or (2) for any person who has not attained a high school degree or its equivalent if it is determined, in accordance with procedures established by the Secretary, that there is substantial evidence that such person left school in order to participate in any program under this part.

(Pub. L. 93-203, title IV, § 443, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1990.)

PRIOR PROVISIONS

A prior section 918, Pub. L. 93-203, title IV, § 408, Dec. 28, 1973, 87 Stat. 866, which related to activities of the program, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 930 of this title.

Provisions similar to those comprising this section were contained in former section 895b of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 896 of this title.

§ 919. Special provisions for youth community conservation and improvement projects and youth employment and training programs

(a) Requisite conditions of youths participating in programs, projects, and activities

Appropriate efforts shall be made to ensure that youths participating in programs, projects, and activities under subparts 2 and 3 shall be youths who are experiencing severe handicaps in obtaining employment, including but not limited to those who lack credentials (such as a high school diploma), those who require substantial basic and remedial skill development, those who are women and minorities, those who are veterans of military service, those who are offenders, those who are handicapped, those with dependents, or those who have otherwise demonstrated special need, as determined by the Secretary.

(b) Reallocation of funds

The Secretary is authorized to make such reallocation as the Secretary deems appropriate of any amount of any allocation under subparts 2 and 3 to the extent that the Secretary determines that an eligible applicant will not be able to use such amount within a reasonable period of time. Any such amount may be reallocated only if the Secretary has provided 30 days' advance notice of the proposed reallocation to the eligible applicant and to the Governor of the State of the proposed reallocation, during which period of time the eligible applicant and the Governor may submit comments to the Secretary. After considering any comments submitted during such period, the Secretary shall notify the Governor and affected eligible applicants of any decision to reallocate funds, and shall publish any such decision in the Federal

Register. Priority shall be given in reallocating such funds to other areas within the same State.

(c) Applicability of section 823 of this title

The provisions of section 823(g)(1)(C) of this title shall apply to subparts 2 and 3.

(Pub. L. 93-203, title IV, § 444, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1991.)

PRIOR PROVISIONS

A prior section 919, Pub. L. 93-203, title IV, § 409, Dec. 28, 1973, 87 Stat. 867, which provided for allowances and support for the enrollees, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 931 of this title.

Provisions similar to those comprising this section were contained in former section 895c of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 920. Academic credit and counseling and placement services

(a) Grant of academic credit to eligible participants in school

In carrying out this part, appropriate efforts shall be made to encourage the granting by the educational agency or school involved of academic credit to eligible participants who are in school.

(b) Award of academic credit for competencies derived from work experience obtained through programs under this part

The Secretary, in carrying out the purposes of this part, shall cooperate with the Secretary of Health, Education, and Welfare to make suitable arrangements with appropriate State and local education officials whereby academic credit may be awarded, consistent with applicable State law, by educational institutions and agencies for competencies derived from work experience obtained through programs established under this part.

(c) Counseling and placement services

All activities assisted under this part, pursuant to such regulations as the Secretary shall prescribe, shall provide appropriate counseling and placement services designed to facilitate the transition of youth from participation in the project to (1) permanent jobs in the public or private sector, or (2) education or training programs.

(Pub. L. 93-203, title IV, § 445, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1992.)

PRIOR PROVISIONS

A prior section 920, Pub. L. 93-203, title IV, § 410, Dec. 28, 1973, 87 Stat. 868, which related to Job Corps centers standards of conduct and deportment, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 932 of this title.

Provisions similar to those comprising this section were contained in former section 895d of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

CHANGE OF NAME

The Secretary of Health, Education, and Welfare was redesignated the Secretary of Health and Human Services by section 3508 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 879 of this title.

§ 921. Disregarded earnings

Earnings and allowances received by any youth under this part shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted programs.

(Pub. L. 93-203, title IV, § 446, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1992.)

PRIOR PROVISIONS

A prior section 921, Pub. L. 93-203, title IV, § 411, Dec. 28, 1973, 87 Stat. 868, which related to activities designed to establish a mutually beneficial relationship between Job Corps centers and nearby communities, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 933 of this title.

Provisions similar to those comprising this section were contained in former section 895e of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 922. Applicability of subchapter I of this chapter

The provisions of subchapter I of this chapter shall apply to this part, except to the extent that any such provision may be inconsistent with the provisions of this part.

(Pub. L. 93-203, title IV, § 447, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1992.)

PRIOR PROVISIONS

A prior section 922, Pub. L. 93-203, title IV, § 412, Dec. 28, 1973, 87 Stat. 869, which related to counseling and job placement, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 934 of this title.

Provisions similar to those comprising this section were contained in former section 895f of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

PART B—JOB CORPS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 822, 892 of this title.

§ 923. Congressional statement of purpose

This part establishes a Job Corps for economically disadvantaged young men and women, sets forth standards and procedures for selecting individuals as enrollees in the Job Corps, authorizes the establishment of residential and nonresidential centers in which enrollees will participate in intensive programs of education, vocational training, work experience, counseling and other activities, and prescribes various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps. The purpose of this part is to assist young persons who need and can benefit from an unusually intensive program, operated in a group setting, to become more responsible, employable, and productive citizens; and to do so in a way that contributes, where feasible, to the development of national, State, and community resources, and to the development and dissemination of techniques for

working with the disadvantaged that can be widely utilized by public and private institutions and agencies.

(Pub. L. 93-203, title IV, § 450, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1992.)

PRIOR PROVISIONS

A prior section 923, Pub. L. 93-203, title IV, § 413, Dec. 28, 1973, 87 Stat. 870, which related to an evaluation of experimental and developmental projects, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 935 of this title.

Provisions similar to those comprising this section were contained in former section 911 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 924. Establishment of Job Corps

There is established within the Department of Labor a "Job Corps".

(Pub. L. 93-203, title IV, § 451, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1993.)

PRIOR PROVISIONS

A prior section 924, Pub. L. 93-203, title IV, § 414, Dec. 28, 1973, 87 Stat. 871, which related to the use of advisory boards and committees by the Secretary, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 936 of this title.

Provisions similar to those comprising this section were contained in former section 912 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 925. Individuals eligible for enrollment in Job Corps

To become an enrollee in the Job Corps, a young man or woman must be an eligible youth who—

(1) has attained age 14 but not attained age 22 at the time of enrollment, except that such maximum age limitation may be waived, in accordance with regulations of the Secretary, in the case of any handicapped individual;

(2) is economically disadvantaged or is a member of a family which is economically disadvantaged, and who requires additional education, training, or intensive counseling and related assistance in order to secure and hold meaningful employment, participate successfully in regular school work, qualify for other suitable training programs, or satisfy Armed Forces requirements;

(3) is currently living in an environment so characterized by cultural deprivation, a disruptive homelife, or other disorienting conditions as to substantially impair prospects for successful participation in other programs providing needed training, education, or assistance;

(4) is determined, after careful screening as provided for in sections 926 and 927 of this title to have the present capabilities and aspirations needed to complete and secure the full benefit of the Job Corps and to be free of medical and behavioral problems so serious that the individual could not adjust to the standards of conduct, discipline, work, and training which the Job Corps involves; and

(5) meets such other standards for enrollment as the Secretary may prescribe and agrees to comply with all applicable Job Corps rules and regulations.

(Pub. L. 93-203, title IV, § 452, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1993.)

PRIOR PROVISIONS

A prior section 925, Pub. L. 93-203, title IV, § 415, Dec. 28, 1973, 87 Stat. 871, relating to action by the Secretary to facilitate participation by the States in the Job Corps program, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 937 of this title.

Provisions similar to those comprising this section were contained in former section 913 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 926. Screening and selection of applicants

(a) Prescription of standards and procedures

The Secretary shall prescribe specific standards and procedures for the screening and selection of applicants for the Job Corps. To the extent practicable, these rules shall be implemented through arrangements with agencies and organizations such as community action agencies, public employment offices, professional groups, labor organizations, and agencies and individuals having contact with youths over substantial periods of time and able to offer reliable information as to their needs and problems. The rules shall provide for necessary consultation with other individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers. The rules shall also provide for the interviewing of each applicant for the purpose of—

(1) determining whether the applicant's educational and vocational needs can best be met through the Job Corps or an alternative program in the applicant's home community;

(2) obtaining from the applicant pertinent data relating to background, needs, and interests for determining eligibility and potential assignment; and

(3) giving the applicant a full understanding of the Job Corps and what will be expected of an enrollee in the event of acceptance.

(b) Payment for referrals prohibited

The Secretary shall make no payments to any individual or organization solely as compensation for referring the names of candidates for Job Corps.

(c) Candidates from rural areas

The Secretary shall assure that Job Corps enrollees include an appropriate number of candidates selected from rural areas, taking into account the proportions of eligible youth who reside in rural areas and the need to provide residential facilities for such youth.

(Pub. L. 93-203, title IV, § 453, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1993.)

PRIOR PROVISIONS

A prior section 926, Pub. L. 93-203, title IV, § 416, Dec. 28, 1973, 87 Stat. 872, which related to the applicability of certain Federal laws to the Job Corps program, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 938 of this title.

Provisions similar to those comprising this section were contained in former section 914 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 925 of this title.

§ 927. Special limitations

(a) No individual shall be selected as an enrollee unless there is reasonable expectation that the individual can participate successfully in group situations and activities, is not likely to engage in behavior that would prevent other enrollees from receiving the benefit of the program or be incompatible with the maintenance of sound discipline and satisfactory relationships between the center to which the individual might be assigned and surrounding communities, and unless the individual manifests a basic understanding of both the rules to which the individual will be subject and of the consequences of failure to observe those rules.

(b) An individual on probation or parole may be selected only if release from the supervision of the probation or parole officials is satisfactory to those officials and the Secretary and does not violate applicable laws or regulations. No individual shall be denied a position in the Job Corps solely on the basis of that individual's contact with the criminal justice system.

(Pub. L. 93-203, title IV, § 454, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1994.)

PRIOR PROVISIONS

A prior section 927, Pub. L. 93-203, title IV, § 417, Dec. 28, 1973, 87 Stat. 873, which related to special limitations with regard to the Job Corps program, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 939 of this title.

Provisions similar to those comprising this section were contained in former section 915 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 925 of this title.

§ 928. Enrollment and assignment

(a) Two year limit on enrollment

No individual may be enrolled in the Job Corps for more than two years, except as the Secretary may authorize in special cases.

(b) Military service obligation not relieved by Job Corps enrollment

Enrollment in the Job Corps shall not relieve any individual of obligations under the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

(c) Assignment to contiguous area

After the Secretary has determined whether an enrollee is to be assigned to a Job Corps Center or a Job Corps Civilian Conservation Center, the enrollee shall be assigned to the center of the appropriate type which is closest to the enrollee's home, except that the Secretary may waive this requirement for good cause, including to ensure an equitable opportunity for youth from various sections of the Nation to participate in the program, to prevent undue delays in assignment, to adequately meet the educational or other needs of an enrollee, and for efficiency and economy in the operation of the program.

(Pub. L. 93-203, title IV, § 455, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1994.)

REFERENCES IN TEXT

The Military Selective Service Act, referred to in subsec. (b), probably means the Military Selective Service Act of 1967, act June 24, 1948, ch. 625, 62 Stat. 604, as amended by Pub. L. 90-40, § 1(1), June 30, 1967, 81 Stat. 100, which is classified principally to section 451 et seq. of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see References in Text note set out under section 451 of Title 50, App., and Tables.

PRIOR PROVISIONS

A prior section 928, Pub. L. 93-203, title IV, § 418, Dec. 28, 1973, 87 Stat. 873, which related to prohibitions concerning political discrimination and political activity, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See sections 833 and 834 of this title.

Provisions similar to those comprising this section were contained in former section 916 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 929. Job Corps centers

(a) The Secretary may make agreements with Federal, State, or local agencies, including a State board or agency designated pursuant to section 104(a)(1) of the Vocational Education Act of 1963 [20 U.S.C. 2304(a)(1)] which operates or wishes to develop area vocational education school facilities or residential vocational schools (or both) as authorized by such Act [20 U.S.C. 2301 et seq.], or private organizations for the establishment and operation of Job Corps centers. Job Corps centers may be residential or nonresidential in character, or both, and shall be designed and operated so as to provide enrollees, in a well-supervised setting, with education, vocational training, work experience (either in direct program activities or through arrangements with employers), counseling, and other services appropriate to their needs. The centers shall include Civilian Conservation Centers, located primarily in rural areas, which shall provide, in addition to other training and assistance, programs of work experience to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest. The centers shall also include training centers located in either urban or rural areas which shall provide activities including training and other services for specific types of skilled or semi-skilled employment.

(b) To the extent feasible, Job Corps centers shall offer education and vocational training opportunities, together with supportive services, on a nonresidential basis to participants in other programs under this chapter. Such opportunities may be offered on a reimbursable basis or through such other arrangements as the Secretary may specify.

(Pub. L. 93-203, title IV, § 456, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1994.)

REFERENCES IN TEXT

Such Act, referred to in subsec. (a), means the Vocational Education Act of 1963, Pub. L. 88-210, title I, Dec. 18, 1963, 77 Stat. 403, which was classified to chapter 32 (§ 1241 et seq.) of Title 20, Education, and was completely amended and reorganized by the Education Amendments of 1976, Pub. L. 94-482, title II, § 202(a), Oct. 21, 1976, 90 Stat. 2169, and is now classified to chapter 44 (§ 2301 et seq.) of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables. For additional details, see also the Codification note preceding section 1241 of Title 20.

PRIOR PROVISIONS

A prior section 929, Pub. L. 93-203, title IV, § 419, Dec. 28, 1973, 87 Stat. 873; Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845, relating to administrative provisions with regard to the Job Corps program, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 940 of this title.

Provisions similar to those comprising this section were contained in former section 917 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 930. Program activities

(a) Required features of program

Each Job Corps center shall provide enrollees with an intensive, well-organized, and fully supervised program of education, vocational training, work experience, planned vocational and recreational activities, physical rehabilitation and development, and counseling. To the fullest extent feasible, the required program shall include activities to assist enrollees in choosing realistic career goals, coping with problems they may encounter in home communities, or in adjusting to new communities, and planning and managing daily affairs in a manner that will best contribute to long-term upward mobility. Center programs shall include required participation in center maintenance work to assist enrollees in increasing their sense of contribution, responsibility, and discipline.

(b) Education and vocational training

The Secretary may arrange for enrollee education and vocational training through local public or private educational agencies, vocational educational institutions, or technical institutes, whenever such institutions provide training substantially equivalent in cost and quality to that which the Secretary could provide through other means.

(c) Certificates

To the extent feasible, arrangements for education, both at the center and at other locations, shall provide opportunities for qualified enrollees to obtain the equivalent of a certificate of graduation from high school. The Secretary, with the concurrence of the Secretary of Health, Education, and Welfare, shall develop certificates to be issued to each enrollee who satisfactorily completes service in the Job Corps and which will reflect the enrollee's level of educational attainment.

(Pub. L. 93-203, title IV, § 457, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1995.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 918 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

CHANGE OF NAME

The Secretary of Health, Education, and Welfare was redesignated the Secretary of Health and Human Services by section 3508 of Title 20, Education.

§ 931. Allowances and support

(a) Limitations; enrollee contributions

The Secretary is authorized to provide enrollees with such personal, travel, and leave allowances, and such quarters, subsistence, transportation, equipment, clothing, recreational services, and other expenses as he may deem necessary or appropriate to their needs. For the fiscal year ending September 30, 1979, personal allowances shall be established at a rate not to exceed $60 per month during the first 6 months of an enrollee's participation in the program and not to exceed $100 per month thereafter, except that allowances in excess of $60 per month, but not exceeding $100 per month, may be provided from the beginning of an enrollee's participation if it is expected to be of less than 6 months' duration and the Secretary is authorized to pay personal allowances in excess of the rates specified in this subsection in unusual circumstances as determined by him. For fiscal years beginning on or after October 1, 1979, such personal allowance limitations may be increased, by regulation, as the Secretary determines appropriate. Such allowances shall be graduated up to the maximum so as to encourage continued participation in the program, achievement and the best use by the enrollee of the funds so provided and shall be subject to reduction in appropriate cases as a disciplinary measure. To the degree reasonable, enrollees shall be required to meet or contribute to costs associated with their individual comfort and enjoyment from their personal allowances.

(b) Leave accrual rules

The Secretary shall prescribe rules governing the accrual of leave by enrollees. Except in the case of emergency, he shall in no event assume transportation costs connected with leave of any enrollee who has not completed at least 6 months' service in the Job Corps.

(c) Readjustment allowance

The Secretary may provide each former enrollee upon termination, a readjustment allowance at a rate not to exceed, for the fiscal year ending September 30, 1979, $100 for each month of satisfactory participation in the Job Corps. For fiscal years beginning on or after October 1, 1979, such readjustment allowance limitation may be increased, by regulation, as the Secretary determines appropriate. No enrollee shall be entitled to a readjustment allowance unless he has remained in the program at least 90 days, except in unusual circumstances as determined by the Secretary. The Secretary may, from time to time, to advance to or on behalf of an enrollee such portions of his readjustment allowances as the Secretary deems

necessary to meet extraordinary financial obligations incurred by that enrollee. The Secretary is authorized, pursuant to rules or regulations, reduce[1] the amount of an enrollee's readjustment allowance as a penalty for misconduct during participation in the Job Corps. In the event of an enrollee's death during his period of service, the amount of any unpaid readjustment allowance shall be paid in accordance with the provisions of section 5582 of title 5.

(d) Payment of readjustment allowance to enrollee's spouse, child, or other relative

Such portion of the readjustment allowance as prescribed by the Secretary may be paid monthly during the period of service of the enrollee directly to a spouse or child of an enrollee, or to any other relative who draws substantial support from the enrollee, and any amount so paid shall be supplemented by the payment of an equal amount by the Secretary.

(Pub. L. 93–203, title IV, § 458, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1995.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 919 of this title prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

§ 932. Standards of conduct

(a) Within Job Corps centers standards of conduct shall be provided and stringently enforced. If violations are committed by enrollees, dismissal from the Corps or transfers to other locations shall be made if it is determined that retention in the Corps, or in the particular center, will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees.

(b) To promote the proper moral and disciplinary conditions in the Job Corps, the directors of Job Corps centers shall take appropriate disciplinary measures against enrollees, including dismissal from the Job Corps, subject to expeditious appeal to the Secretary.

(Pub. L. 93–203, title IV, § 459, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1996.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 920 of this title prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

§ 933. Community participation; community advisory councils

The Secretary shall encourage and cooperate in activities to establish a mutually beneficial relationship between Job Corps centers and nearby communities. These activities shall include the establishment of community advisory councils to provide a mechanism for joint discussion of common problems and for planning programs of mutual interest. Youth shall be represented on the advisory council and separate youth councils may be established composed of enrollees and young people from the communities. The Secretary shall assure that each center is operated with a view to achieving, so far as possible, objectives which shall include—

(1) giving community officials appropriate advance notice of changes in center rules, procedures, or activities that may affect or be of interest to the community;

(2) affording the community a meaningful voice in center affairs of direct concern to it, including policies governing the issuance and terms of passes to enrollees;

(3) providing center officials with full and rapid access to relevant community groups and agencies, including law enforcement agencies and agencies which work with young people in the community;

(4) encouraging the fullest practicable participation of enrollees in programs for community improvement or betterment, with appropriate advance consultation with business, labor, professional, and other interested community groups;

(5) arranging recreational, athletic, or similar events in which enrollees and local residents may participate together;

(6) providing community residents with opportunities to work with enrollees directly as part-time instructors, tutors, or advisers, either in the center or in the community;

(7) developing, where feasible, job or career opportunities for enrollees in the community; and

(8) promoting interchanges of information and techniques among, and cooperative projects involving, the center and community schools, educational institutions, agencies serving young people and recipients of funds under this chapter.

(Pub. L. 93–203, title IV, § 460, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1997.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 921 of this title prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

§ 934. Counseling and job placement

(a) Testing and counseling at regular intervals

The Secretary shall counsel and test each enrollee at regular intervals to measure progress in educational and vocational programs.

(b) Job placement

The Secretary shall counsel and test enrollees prior to their scheduled terminations to determine their capabilities and shall make every effort to place them in jobs in the vocation for which they are trained or to assist them in attaining further training or education. In placing enrollees in jobs, the Secretary shall utilize the public employment service system to the fullest extent possible.

(c) Status and progress of enrollees scheduled for termination

The Secretary shall determine the status and progress of enrollees scheduled for termination and make every effort to assure that their needs for further education, training, and counseling are met.

[1] So in original. Probably should read "to reduce".

(d) Place of payment of readjustment allowance to former enrollees

The Secretary shall arrange for the readjustment allowance to be paid to former enrollees (who have not already found employment) at the State employment service office nearest the home of any such former enrollee who is returning home, or at the nearest such office where the former enrollee has indicated an intent to reside. If the Secretary uses any other public agency or private organization in lieu of the public employment service system, the Secretary shall arrange for that organization or agency to pay the readjustment allowance.

(Pub. L. 93–203, title IV, § 461, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1997.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 922 of this title prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

§ 935. Experimental and developmental projects

(a)(1) The Secretary is authorized to undertake experimental, research, or demonstration projects to develop or test ways of better using facilities, encouraging a more rapid adjustment of enrollees to community life that will permit a reduction in their period of enrollment, reducing transportation and support costs, or otherwise promoting greater efficiency and effectiveness in the program. These projects shall include one or more projects providing youths with education, training, and other supportive services on a combined residential and nonresidential basis.

(2) The Secretary is authorized to undertake one or more pilot projects designed to involve youth who have a history of serious and violent behavior against persons or property, repetitive delinquent acts, narcotics addiction, or other behavioral aberrations.

(3) Projects under this subsection shall be developed after appropriate consultation with other Federal or State agencies conducting similar or related programs or projects and with the prime sponsors in the communities where the projects will be carried out. They may be undertaken jointly with other Federal or federally assisted programs, and funds otherwise available for activities under those programs shall, with the consent of the head of any agency concerned, be available for projects under this section to the extent they include the same or substantially similar activities. The Secretary is authorized to waive any provision of this part which the Secretary finds would prevent the carrying out of elements of projects under this subsection essential to a determination of their feasibility and usefulness. The Secretary shall, in the annual report of the Secretary, report to the Congress concerning the actions taken under this section, including a full description of progress made in connection with combined residential and nonresidential projects.

(b) In order to determine whether upgraded vocational education schools could eliminate or substantially reduce the school dropout problem, and to demonstrate how communities could make maximum use of existing educational and training facilities, the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, is authorized to enter into one or more agreements with State educational agencies to pay the cost of establishing and operating model community vocational education schools and skill centers.

(Pub. L. 93–203, title IV, § 462, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1998.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 923 of this title prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

CHANGE OF NAME

The Secretary of Health, Education, and Welfare was redesignated the Secretary of Health and Human Services by section 3508 of Title 20, Education.

§ 936. Advisory boards and committees

The Secretary is authorized to make use of advisory committees in connection with the operation of the Job Corps, and the operation of Job Corps centers, whenever the Secretary determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities.

(Pub. L. 93–203, title IV, § 463, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 1998.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 924 of this title prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

§ 937. Participation of States

(a) Action by Secretary to facilitate participation

The Secretary shall take action to facilitate the effective participation of States in the Job Corps programs, including consultation with appropriate State agencies on matters pertaining to the enforcement of applicable State laws, standards of enrollee conduct and discipline, the development of meaningful work experience and other activities for enrollees, and coordination with State-operated programs.

(b) Agreements with States; payment of costs

The Secretary is authorized to enter into agreements with States to assist in the operation or administration of State-operated programs which carry out the purpose of this part. The Secretary is authorized, pursuant to regulations, to pay part or all of the costs of such programs.

(c) Notice to Governor of proposed establishment of Job Corps facility

No Job Corps center or other similar facility designed to carry out the purpose of this part shall be established within a State unless a notice setting forth such proposed establish-

ment has been submitted to the Governor, and the establishment has not been disapproved by the Governor within 30 days of such submission.

(d) Concurrent jurisdiction

All property which would otherwise be under exclusive Federal legislative jurisdiction shall be under concurrent jurisdiction with the appropriate State and locality with respect to criminal law enforcement as long as a Job Corps center is operated on such property.

(Pub. L. 93-203, title IV, § 464, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1999.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 925 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 938. Application of provisions of Federal law

(a) Federal employee status

Except as otherwise provided in this subsection and in section 8143(a) of title 5, enrollees in the Job Corps shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment, including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits:

(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.) enrollees shall be deemed employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

(2) For purposes of subchapter I of chapter 81 of title 5, (relating to compensation to Federal employees for work injuries), enrollees shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5 and the provisions of that subchapter shall apply except—

(A) the term "performance of duty" shall not include any act of an enrollee while absent from the assigned post of duty of such enrollee, except while participating in an activity (including an activity while on pass or during travel to or from such post or duty) authorized by or under the direction and supervision of the Job Corps;

(B) in computing compensation benefits for disability or death, the monthly pay of an enrollee shall be deemed that received under the entrance salary for a grade GS-2 employee, and sections 8113(a) and (b) of title 5 shall apply to enrollees; and

(C) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee is terminated.

(3) For purposes of the Federal tort claims provisions in title 28, enrollees shall be considered employees of the Government.

(b) Claims against United States

Whenever the Secretary finds a claim for damages to persons or property resulting from the operation of the Job Corps to be a proper charge against the United States, and it is not cognizable under section 2672 of title 28, the Secretary is authorized to adjust and settle it in an amount not exceeding $1,500.

(c) Uniformed services personnel strength computations

Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Secretary for the support of the Corps shall not be counted in computing strength under any law limiting the strength of such services or in computing the percentage authorized by law for any grade in such services.

(Pub. L. 93-203, title IV, § 465, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 1999.)

REFERENCES IN TEXT

The Internal Revenue Code of 1954, referred to in subsec. (a)(1), is classified generally to Title 26, Internal Revenue Code.

The Social Security Act, referred to in subsec. (a)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Grade GS-2, referred to in subsec. (a)(2)(B), is contained in the General Schedule which is set out under section 5332 of Title 5, Government Organization and Employees.

The Federal tort claims provisions in title 28, referred to in subsec. (a)(3), is the Federal Tort Claims Act, which is classified generally to section 1346(b) and chapter 171 (§ 2671 et seq.) of Title 28, Judiciary and Judicial Procedure.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 926 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 939. Special provisions

(a) Ratio of women enrollees

The Secretary shall immediately take steps to achieve an enrollment of 50 percent women in the Job Corps consistent with (1) efficiency and economy in the operation of the program, (2) sound administrative practice, and (3) the socioeconomic, educational, and training needs of the population to be served.

(b) Studies, evaluations, proposals, etc., produced or developed with Federal funds to become property of United States

The Secretary shall assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of the Job Corps program shall become the property of the United States.

(c) Transactions conducted by private for-profit contractors

Transactions conducted by private for-profit contractors for Job Corps centers which they are operating on behalf of the Secretary shall not be considered as generating gross receipts.

(Pub. L. 93-203, title IV, § 466, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2000.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 927 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 940. Administrative provisions

The Secretary is authorized to—

(1) disseminate, with regard to the provisions of section 3204 of title 39, data and information in such forms as the Secretary shall deem appropriate, to public agencies, private organizations, and the general public;

(2) collect or compromise all obligations to or held by the Secretary and all legal or equitable rights accuring[1] to the Secretary in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and

(3) expend funds made available for purposes of this part—

(A) for printing and binding, in accordance with applicable law and regulation; and

(B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by the Secretary, except that the Secretary shall not utilize the authority contained in this subparagraph—

(i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this part, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form or under the conditions in which it is needed; and

(ii) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of the Secretary's intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority.

(Pub. L. 93-203, title IV, § 467, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2000.)

CODIFICATION

"Section 3204 of title 39", referred to in par. (1), was substituted for "section 4154 of title 39" on authority of section 6(q) of Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 783, section 2 of which enacted Title 39, Postal Service.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 929 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

[1] So in original. Probably should read "accruing".

§ 941. Utilization of funds

Notwithstanding the limitations of subchapter II and part C of this subchapter, financial assistance under subchapter II and part C of this subchapter which is used for the Job Corps program, may be used in accordance with the provisions of this part.

(Pub. L. 93-203, title IV, § 468, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2001.)

PART C—SUMMER YOUTH PROGRAM

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 822, 892, 896, 941 of this title.

§ 942. Establishment of program

(a) The Secretary shall provide financial assistance to prime sponsors to conduct programs for eligible youth during the summer months.

(b) Programs shall provide eligible youth with useful work and sufficient basic education and institutional or on-the-job training to assist these youths to develop their maximum occupational potential and to obtain employment not subsidized under this chapter.

(Pub. L. 93-203, title IV, § 481, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2001.)

§ 943. Prime sponsors

Prime sponsors eligible for assistance under this part shall be prime sponsors designated under section 811(c) of this title and Native American entities described in section 872(c)(1) of this title.

(Pub. L. 93-203, title IV, § 482, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2001.)

§ 944. Financial assistance

(a) Submission of annual plan as prerequisite to providing financial assistance to prime sponsors

In order to receive financial assistance under this part, a prime sponsor shall submit to the Secretary an annual plan pursuant to section 813 of this title.

(b) Reservation of funds by Secretary

The funds appropriated for this part in any fiscal year shall be allocated according to the procedures set forth in subsection (c) of this section except that the Secretary may reserve up to 5 percent of the appropriated funds to be used in the Secretary's discretion including allocations to Native American entities under subsection (c)(2) of this section.

(c) Allocation of funds

(1) In allocating funds under this part, the Secretary shall add to the new appropriation the total amount of summer funds unspent in the previous year's summer program.

(2) Funds for prime sponsors designated under section 811(c) of this title shall be allocated as follows:

(A)(i) 50 percent of such funds shall be allocated on the basis of each prime sponsor's proportion of the funds allocated for the previous year's summer programs;

(ii) 37½ percent of the funds shall be allocated based on the ratio of the annual aver-

age number of unemployed persons in the prime sponsor's area to the total annual average number of unemployed persons in the United States;

(iii) 12½ percent of the funds shall be allocated based on the ratio of the number of adults in low-income families in the prime sponsor's area to the total number of adults in low-income families in the United States; except that—

(B) each prime sponsor shall receive an allocation which, when added to its unexpended allocation for the previous fiscal year, shall be at least equal to the amount available to it for its summer program in the previous fiscal year.

(3) Funds for Native American entities described in section 872(c)(1) of this title shall be allocated based on the ratio of the number of Native American youths 14 through 21 years of age inclusive in the eligible prime sponsor's area to the total number of Native American youths 14 through 21 years of age inclusive in all Native American entity areas, except that each Native American entity shall receive an amount of funds equal to the amount allocated to it in the previous fiscal year.

(4) The total allocation to Guam, the Virgin Islands, American Samoa, Northern Marianas, and the Trust Territory of the Pacific Islands shall be equal to the same percentage of the funds allocated to Guam, the Virgin Islands, American Samoa, Northern Marianas, and the Trust Territory of the Pacific Islands under the previous year's summer program.

(Pub. L. 93-203, title IV, § 483, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2001.)

§ 945. Secretarial authority

Programs under this part shall meet such regulations, standards, and guidelines as the Secretary shall establish.

(Pub. L. 93-203, title IV, § 484, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2002.)

SUBCHAPTER V—NATIONAL COMMISSION FOR EMPLOYMENT POLICY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 822 of this title; title 20 section 2392.

§ 951. Congressional statement of purpose

The purpose of this subchapter is to establish a National Commission for Employment Policy which will have the responsibility for examining broad issues of development, coordination, and administration and employment and training programs, and for advising the President and the Congress on national employment and training issues.

(Pub. L. 93-203, title V, § 501, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2002.)

PRIOR PROVISIONS

A prior section 951, Pub. L. 93-203, title V, § 501, Dec. 28, 1973, 87 Stat. 874, which provided for congressional findings and declaration of purpose with regard to the National Commission for Manpower Policy, was formerly classified to this section and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 952. Commission established

(a) Membership

There is established a National Commission for Employment Policy (formerly known as the National Commission for Manpower Policy and hereinafter in this subchapter referred to as the "Commission"). The Commission shall be composed of 15 members selected as follows:

(1) The Secretary, the Secretary of Health, Education, and Welfare, the Administrator of Veterans' Affairs, the Chairman of the Equal Employment Opportunity Commission, and the Director of the Community Services Administration.

(2) A representative of the National Advisory Council on Vocational Education established under section 2392 of title 20.

(3) Nine members, appointed by the President, broadly representative of labor, industry, commerce, education (including vocational and technical education), veterans, State and local elective officials currently serving in office, community based organizations, individuals served by employment and training programs and of the general public.

(b) Restriction on appointment of individuals serving as members of National Commission for Manpower Policy

In making the first appointments under clause (3) of subsection (a) of this section, the President may appoint not more than 3 individuals who are serving as members of the National Commission for Manpower Policy on October 27, 1978. Any such individuals shall serve for a term of 1 year.

(c) Term of office

The term of office of each member of the Commission appointed under clause (3) of subsection (a) of this section shall be 3 years, except that—

(1) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and

(2) of the members first taking office—

(A) 3 shall serve for terms of 1 year;

(B) 3 shall serve for terms of 2 years; and

(C) 3 shall serve for terms of 3 years;

as designated by the President at the time of appointment (subject to the provisions of the last sentence of subsection (b) of this section).

(d) Chairman; meetings; quorum

(1) The Chairman shall be selected by the President from among members appointed pursuant to clause (3) of subsection (a) of this section.

(2) The Commission shall meet not fewer than 3 times each year at the call of the Chairman.

(3) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings. Any recommendation may be passed only by a majority of the members present. Any vacancy in the Commis-

sion shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

(e) Appointment of Director

The Chairman (with the concurrence of the Commission) shall appoint a Director, who shall be chief executive officer of the Commission and shall perform such duties as are prescribed by the Chairman.

(Pub. L. 93-203, title V, § 502, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2002.)

AMENDMENT OF SUBSECTION (a)

Pub. L. 96-88, title V, § 508(h)(7), title VI, § 601(a), Oct. 17, 1979, 93 Stat. 693, 696, provided that, effective 180 days after the first Secretary of Education takes office, or on any earlier date on or after Oct. 1, 1979, as the President prescribes and publishes in the Federal Register, subsec. (a) is amended by substituting "16" for "15" and par. (1) of subsec. (a) is amended by substituting "Education, Secretary of Health and Human Services" for "Health, Education, and Welfare".

PRIOR PROVISIONS

A prior section 952, Pub. L. 93-203, title V, § 502, Dec. 28, 1973, 87 Stat. 874; Pub. L. 94-482, title II, § 203(b)(1), Oct. 12, 1976, 90 Stat. 2214, which related to the establishment of the National Commission for Manpower Policy, was formerly classified to this section and was omitted from the Code in the general revision of Pub. L. 95-203 by Pub. L. 95-524.

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE; NATIONAL COMMISSION ON EMPLOYMENT AND UNEMPLOYMENT STATISTICS; ESTABLISHMENT

Pub. L. 94-444, § 13, Oct. 1, 1976, 90 Stat. 1483, provided that:

"(a)(1) The Congress finds and declares that—

"(A) the reliable and comprehensive measurement of employment and unemployment is vital to assessing the Nation's economic well-being and the utilization of its work force, and is an important determinant of public policies toward job creation, education, training, assistance for the jobless, and other labor market programs;

"(B) the allocation of billions of dollars of Federal funds on the basis of unemployment data is increasing, making even more crucial the timely, accurate, and uniform measurement of the labor force;

"(C) the formulation of public policies to promote the most effective use of our human resources is hindered by inadequate information on the utilization and effect of education and training programs;

"(D) in order for governmental and private sector policy decisions to have maximum effect upon reducing unemployment and strengthening the labor force, an accurate and precise system for measuring employment and unemployment and its impacts on particular segments of the potential work force is essential;

"(E) the current method of data collection and the form of its presentation, at national, regional, and subregional levels, may not fully reflect unemployment and employment trends, and may produce incomplete and, therefore, misleading conclusions, thus impairing the validity and utility of this critical economic indicator;

"(F) it is critical to retain public confidence in the procedures, concepts, and methodology of collecting, analyzing, and presenting employment and unemployment statistics; and

"(G) objectivity is a necessity in considering reform of statistical processes.

"(2) It is the purpose of this section to establish a National Commission on Employment and Unemployment Statistics to have responsibility for examining the procedures, concepts, and methodology involved in employment and unemployment statistics and suggesting ways and means of improving them.

"(b)(1) There shall be established a National Commission on Employment and Unemployment Statistics (hereinafter in this section referred to as the 'Commission') which shall consist of nine members appointed by the President, by and with the advice and consent of the Senate. Seven of the members shall be selected on the basis of their knowledge of and experience in the procedures, methodology, or use of employment and unemployment statistics, and shall be broadly representative of labor, business and finance, education and training, economics and statistics, and State and local government. Two of the members shall be selected from the general public. The membership of the Commission shall be generally representative of significant segments of the labor force, including women and minority groups. Any vacancy in the Commission shall not affect its powers as long as there continues to be at least five members; and any such vacancy may be filled in the same manner as the original appointment is made.

"(2) Except when six members of the Commission shall vote to hold an executive session for a particular purpose, the Secretary of Labor, the Secretary of Commerce, the Commissioner of Labor Statistics, the Director of the Bureau of the Census, the Director of the Office of Management and Budget, the Chairman of the National Commission for Manpower Policy, the Chairman of the Council of Economic Advisers, and a majority and a minority member each of the Joint Economic Committee, of the Committee on Labor and Public Welfare of the Senate, and of the Committee on Education and Labor of the House of Representatives, or in each case a designee, shall assist and participate in the hearings, deliberations, and other activities of the Commission on an advisory basis.

"(3) The President shall designate a Chairman from among the appointed members of the Commission.

"(4) The Chairman, with the concurrence of the Commission, shall appoint an executive director, who shall be the chief executive officer of the Commission and shall perform such duties as are prescribed by the Chairman or the Commission. The executive director may appoint, with the concurrence of the Chairman, such professional, technical, and clerical staff as are necessary to carry out the provisions of this section. The executive director and staff shall be appointed without regard to the provisions of title 5, United States Code, governing appointments to the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate of GS-18 of the General Schedule under section 5332 of such title. The executive director, with the concurrence of the Chairman, may obtain temporary and intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code. The Commission may utilize such staff, with or without reimbursement, from the Department of Labor, the Department of Commerce, and such other appropriate Federal agencies as may be available to assist the Commission in carrying out its responsibilities.

"(5) The Commission shall determine its own internal procedures, including the constituting of a quorum.

"(6) The Commission is authorized to accept and utilize voluntary and uncompensated services notwithstanding the provisions of section 665(b) of title 31, United States Code.

"(7) Members of the Commission who are not officers or employees of the Federal Government shall be paid compensation at a rate of not to exceed the per diem equivalent of the rate for GS-18 of the General

Schedule under section 5332 of title 5, United States Code, when engaged in the work of the Commission, including traveltime; and while serving away from their homes or regular places of business, shall be allowed travel expenses including per diem in lieu of subsistence, in the same manner as such expenses are authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

"(c) The Commission shall—

"(1) identify the needs of the Nation for labor force statistics and assess the extent to which current procedures, concepts, and methodology in the collection, analysis, and presentation of such statistics constitute a comprehensive, reliable, timely, and consistent system of measuring employment and unemployment and indicating trends therein; and

"(2) conduct or provide (through contract with institutions, organizations, and individuals, or appropriate Federal or State agencies, or otherwise) for such studies, hearings, research, or other activities as it deems necessary to enable it to formulate appropriate recommendations.

The Commission or, on the authorization of the Commission, any subcommittee or members thereof, may, for the purposes of carrying out the provisions of this section, hold such hearings, take such testimony, and sit and act at such times and places as the Commission deems advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or members thereof.

"(d)(1) The Commission shall make a report of its findings and recommendations to the President and the Congress within eighteen months after the date of appointment of the first five members of the Commission.

"(2) In preparing its report, the Commission shall consider the following:

"(A) The methodology of collection of employment and unemployment data at all levels, including National, regional, State, and local statistics.

"(B) The methodology of analysis of such data, including its relevance and application.

"(C) The methodology of presentation of employment and unemployment statistics, including the dissemination, current utilization, and application of such statistics.

"(D) Alternative methods of such collection, analysis, and presentation.

"(E) The need for additional special statistical surveys (including longitudinal studies) and reports on a continuing basis.

"(F) The need for additional data and analysis on job vacancies, job turnover, job matching, discouraged workers, part-time workers, youth, minorities, women, and other labor force participants.

"(G) Accuracy and uniformity of seasonal adjustments in all categories of labor force statistics.

"(H) Methods of achieving current, accurate, and uniform employment and unemployment statistics on a State and local basis, including their use as a determinant of the allocation of Federal assistance.

"(I) The need for, and methods to obtain, data relating employment status and earnings, economic hardship, and family support obligations.

"(J) The extent to which employment and earnings data assist in determining the impact of public programs and policies upon persons who are economically disadvantaged, unemployed, or underemployed.

"(K) The availability of and need for periodic information on education and training enrollments and completions in the public and private sectors.

"(L) Statistical indicators of the relationship between education and training and subsequent employment, earnings, and unemployment experience.

"(M) The value and usefulness of other statistics regarding employment and unemployment, such as those obtained through operation of the unemployment insurance system.

"(N) The availability of and need for current and projected occupational information, particularly on a local basis, to assist youths and adults in making training, education, and career choices.

"(O) Such other matters as the Commission deems appropriate or necessary, including such matters as are suggested by the President or by the Congress that the Commission deems appropriate.

"(3) The Commission's report shall contain its findings and recommendations, including a feasible schedule for their implementation, cost estimates, and any appropriate draft regulations and legislation to implement such recommendations.

"(4) The Commission may make such interim reports or recommendations as it may deem desirable.

"(e) Upon submission of the Commission's final report, the Secretary of Labor shall take steps to ascertain the views of each affected executive agency and, within six months after the report's submission, shall make an interim report to the Congress on—

"(1) the desirability, feasibility, and cost of implementing each of the Commission's recommendations, and the actions taken or planned with respect to their implementation; and

"(2) recommendations with respect to any legislation proposed by the Commission, the need for any alternative or additional legislation to implement the Commission's recommendations, and any other proposals to strengthen and improve the measurement of employment and unemployment.

Within two years after submission of the Commission's final report, the Secretary shall submit a final report to the Congress detailing the actions taken with respect to the recommendations of the Commission, together with any further recommendations deemed appropriate.

"(f)(1) Each department, agency, and instrumentality of the Federal Government is authorized and directed to cooperate fully with the Commission in furnishing appropriate information to assist the Commission in carrying out its functions under this section.

"(2) The head of each department, agency, or instrumentality of the Federal Government is authorized to provide such support and services to the Commission, upon request of the Chairman, as may be agreed between the head of the department, agency, or instrumentality and the Chairman.

"(g) The Commission shall cease to exist one hundred and eighty days after submission of its final report as required under subsection (d)(1) of this section.

"(h)(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

"(2) Notwithstanding any other provision of law, any funds appropriated to carry out this section which are not obligated prior to the end of the fiscal year for which such funds were appropriated shall remain available for obligation during the succeeding fiscal year."

§ 953. Functions of Commission

The Commission shall—

(1) identify the employment goals and needs of the Nation, and assess the extent to which employment and training, vocational education, institutional training, vocational rehabilitation, economic opportunity programs, public assistance policies, employment-related tax policies, labor exchange policies, and other policies and programs under this chapter and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs and achieving such goals;

(2) develop and make appropriate recommendations (including recommendations re-

sponsive to requests made by the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives), and develop innovative approaches, designed to meet the needs and goals described in clause (1);

(3) examine and evaluate the effectiveness of any federally assisted employment and training programs (including programs assisted under this chapter), with particular reference to the contributions of such programs to the achievement of objectives sought by the recommendations made under clause (2);

(4) examine and evaluate major Federal programs which are intended to, or potentially could, contribute to achieving major objectives of existing employment and training and related legislation or the objectives set forth in the recommendations of the Commission, with particular attention shall[1] be given to the programs which are designed, or could be designed, to develop information and knowledge about employment and training problems through research and demonstration projects or to train personnel in fields (such as occupational counseling, guidance, and placement) which are vital to the success of employment and training programs;

(5)(A) identify, after consultation with the National Advisory Council on Vocational Education, the employment and training and vocational education needs of the Nation and assess the extent to which employment and training, vocational education, vocational rehabilitation, and other programs assisted under this chapter and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and

(B) comment, at least once annually, on the reports of the National Advisory Council on Vocational Education which comments shall be included in one of the reports submitted by the National Commission pursuant to this subchapter and in one of the reports submitted by the National Advisory Council on Vocational Education pursuant to section 2392 of title 20;

(6) evaluate and continue to study and make recommendations to the Congress on the impact of energy shortages and new energy developments upon employment and training needs and include the findings and recommendations with respect thereto in the reports required by section 955 of this title;

(7) study and make recommendations on how, through policies and actions in the public and private sectors, the Nation can attain and maintain full employment, with special emphasis on the employment difficulties faced by the segments of the labor force that experience differentially high rates of unemployment;

(8) identify and assess the goals and needs of the Nation with respect to economic growth and work improvements, including conditions of employment, organizational effectiveness and efficiency, alternative working arrangements, and technological changes;

(9) examine and evaluate the relationships between employment and training programs assisted under this chapter with programs under parts A and C of title IV of the Social Security Act [42 U.S.C. 601 et seq., 630 et seq.] and related public assistance programs under the Social Security Act [42 U.S.C. 301 et seq.]; and

(Pub. L. 93-203, title V, § 503, as added Pub. L. 95-524, §2, Oct. 27, 1978, 92 Stat. 2003, and amended S. Res. 30, Mar. 7, 1979.)

[1] So in original. Probably should be "to".

REFERENCES IN TEXT

The Social Security Act, referred to in par. (9), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. Parts A and C of title IV of the Social Security Act are classified generally to parts A (§ 601 et seq.) and C (§ 630 et seq.), respectively, of subchapter IV of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Comprehensive Employment and Training Act of 1973, referred to in par. (10), is Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, as amended, which was principally classified to this chapter prior to its general revision by Pub. L. 95-524. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

CODIFICATION

Par. (10) of this section, which authorized the Commission to examine and evaluate the eligibility standards set forth in this chapter, particularly subchapters II and VI of this chapter, to determine their impact on single heads of households, especially women and older Americans, and to submit a report, not later than July 1, 1979, to the Congress, for appropriate referral, on the Commission's findings together with any proposed changes in this chapter concerning the eligibility standards for such single heads of households, was omitted from the Code as executed.

PRIOR PROVISIONS

A prior section 953, Pub. L. 93-203, title V, 503, Dec. 28, 1973, 87 Stat. 875; Pub. L. 94-482, title II, § 203(b)(2), Oct. 12, 1976, 90 Stat. 2214; Pub. L. 95-40, § 1(28)(B), June 3, 1977, 91 Stat. 207, which related to the functions of the National Commission for Manpower Policy, was formerly classified to this section and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

CHANGE OF NAME

The name of the Committee on Human Resources of the Senate was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See, also, Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.

REPORT AND STUDY OF PUBLIC SERVICE EMPLOYMENT PROGRAMS

Pub. L. 94-444, § 15, Oct. 1, 1976, 90 Stat. 1488, which provided that the National Commission for Manpower Policy conduct a study of the net employment effects of the public service employment programs and submit a report on such study to the Congress not later than Mar. 31, 1978, was omitted as executed.

§ 954. Administrative provisions

(a) Subject to such rules and regulations as may be adopted by the Commission, the Chairman is authorized to—

(1) prescribe such rules and regulations as may be necessary;

(2) appoint and fix the compensation of such staff personnel as the Chairman deems

necessary, and without regard to the provisions of title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and the General Schedule pay rates, appoint not to exceed 3 additional professional personnel;

(3) procure the services of experts and consultants in accordance with section 3109 of title 5;

(4) accept voluntary and uncompensated services of professional personnel, consultants, and experts, notwithstanding any other provision of law;

(5) accept in the name of the United States and employ or dispose of gifts or bequests to carry out the functions of the Commission under this subchapter;

(6) enter into contracts and make such other arrangements and modifications, as may be necessary;

(7) conduct such studies, hearings, research activities, demonstration projects, and other similar activities as the Commission deems necessary to enable the Commission to carry out its functions under this subchapter;

(8) use the services, personnel, facilities, and information of any department, agency, and instrumentality of the executive branch of the Federal Government and the services, personnel, facilities, and information of State and local public agencies and private research agencies, with the consent of such agencies, with or without reimbursement therefor; and

(9) make advances, progress, and other payments necessary under this chapter without regard to the provisions of section 529 of title 31.

(b) Upon request made by the Chairman of the Commission, each department, agency, and instrumentality of the executive branch of the Federal Government is authorized and directed to make its services, personnel, facilities, and information (including computer-time, estimates, and statistics) available to the greatest practicable extent to the Commission in the performance of its functions under this chapter.

(Pub. L. 93-203, title V, § 504, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2004.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a)(2), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (a)(2), is set out under section 5332 of Title 5.

PRIOR PROVISIONS

A prior section 954, Pub. L. 93-203, title V, § 504, Dec. 28, 1973, 87 Stat. 875, which related to a study of the utilization and interrelation of programs of manpower training with closely associated programs, was formerly classified to this section and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 955. Reports

The Commission shall make at least annually a report of its findings and recommendations to the President and the Congress. The Commission may make such interim reports or recommendations to the Congress, the President, the Secretary, or to the heads of other Federal departments and agencies, and in such form, as it may deem desirable. The Commission shall include in any report made under this section any minority or dissenting views submitted by any member of the Commission.

(Pub. L. 93-203, title V, § 505, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2005.)

PRIOR PROVISIONS

A prior section 955, Pub. L. 93-203, title V, § 505, Dec. 28, 1973, 87 Stat. 875, which related to reports to the President and Congress, was formerly classified to this section and was eliminated in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

Section 956 of this title, Pub. L. 93-203, title V, § 506, Dec. 28, 1973, 87 Stat. 876, relating to a study by the Secretary concerning the impact of energy shortages upon manpower needs, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 953 of this title; title 20 section 2392.

SUBCHAPTER VI—COUNTERCYCLICAL PUBLIC SERVICE EMPLOYMENT PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 802, 822, 825, 878 of this title.

§ 961. Congressional statement of purpose

It is the purpose of this subchapter to provide for temporary employment during periods of high unemployment. It is the intent of Congress that such employment be provided during periods when the national rate of unemployment is in excess of 4 percent, and that the number of jobs funded shall be sufficient to provide jobs for 20 percent of the number of unemployed in excess of 4 percent, or 25 percent of the number of unemployed in excess of 4 percent in periods during which the national rate of unemployment is in excess of 7 percent.

(Pub. L. 93-203, title VI, § 601, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2005.)

PRIOR PROVISIONS

A prior section 961, Pub. L. 93-203, title VI, 601, as added Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845, and amended Pub. L. 94-444, § 2, Oct. 1, 1976, 90 Stat. 1476; Pub. L. 95-44, § 2(b), June 15, 1977, 91 Stat. 220, which authorized appropriations for emergency job programs, was formerly classified to this section and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 822 of this title.

§ 962. Reports

(a) Report on appropriations

(1) On or before March 1 of each year, the President shall report to the Congress the amount that would be needed to be appropriated for the following fiscal year in order to provide jobs—

(A) for 20 percent of the number of unemployed in excess of 4 percent; or

(B) in fiscal years during which the President estimates that the national rate of unemployment will exceed 7 percent, for 25 percent of the number of unemployed in excess of 4 percent.

Such report shall contain the President's estimate of the unemployment rate for the following fiscal year, the number of unemployed in excess of 4 percent of the labor force, and the average man-year cost of each public service employment opportunity.

(2) If during a fiscal year the rate of unemployment equals or exceeds 7 percent, and the President estimates that the rate of unemployment for the balance of such year will differ significantly from the rate contained in the most recent report submitted with respect to such year under this subsection or subsection (b) of this section, the President shall so report to the Congress and shall include the additional amount, if any, which would be needed to provide jobs for the applicable percentage of unemployed under paragraph (1)(A) or (1)(B). Such report shall also contain the information required by the last sentence of paragraph (1).

(b) Supplementary reports

The President shall submit supplemental reports every three months thereafter containing any necessary revisions in the report required under subsection (a)(1) of this section due to changes in his estimates of unemployment or the cost of providing public service jobs under this subchapter.

(c) Duty of Secretary to inform prime sponsors of estimated allocation

The Secretary shall, as soon as practicable after submission of the report required under subsection (a) of this section, inform each prime sponsor of its estimated allocation on the basis of the amount of funds estimated in such report. Each prime sponsor's annual plan for using funds provided under this subchapter shall contain provisions for an orderly transition from the number of jobs funded for the current year to the number of jobs which would be funded under such estimated allocation.

(Pub. L. 93–203, title VI, § 602, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 2006.)

PRIOR PROVISIONS

A prior section 962, Pub. L. 93–203, title VI, § 602, as added Pub. L. 93–567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845, and amended Pub. L. 94–444, §§ 3(a)(2), 8(a), Oct. 1, 1976, 90 Stat. 1476, 1482; Pub. L. 95–93, title III, § 306(b), Aug. 5, 1977, 91 Stat. 651, which related to availability of financial assistance for emergency job programs, was formerly classified to this section and was omitted from the Code in the general revision of Pub. L. 93–203 by Pub. L. 95–524. See section 963 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 822, 964 of this title.

§ 963. Financial assistance

(a) Not less than 80 percent of the funds allocated in accordance with the provisions of this subchapter which are used by a prime sponsor for public service employment programs under this subchapter shall be expended only for wages and employment benefits to persons employed in public service jobs pursuant to this subchapter. Not less than 10 percent of the funds allocated in accordance with the provisions of this subchapter for fiscal year 1979, and not less than 5 percent of such funds for any fiscal year thereafter, shall be expended for providing training and employability counseling and services to persons employed under this subchapter. The remaining funds may be used for administrative and other allowable costs (such as supplies, materials, and equipment) incurred by the prime sponsor, program agents, project applicants or subgrantees or contractors, in accordance with such regulations as the Secretary may prescribe.

(b) In filling teaching positions in elementary and secondary schools with financial assistance under this subchapter, each prime sponsor shall give special consideration to unemployed persons with previous teaching experience who are certified by the State in which that prime sponsor is located and who are otherwise eligible under the provisions of this subchapter and such positions with local educational agencies shall be filled through subcontracting with the appropriate local educational agency.

(Pub. L. 93–203, title VI, § 603, as added Pub. L. 95–524, § 2, Oct. 27, 1978, 92 Stat. 2006.)

PRIOR PROVISIONS

A prior section 963, Pub. L. 93–203, title VI, § 603, as added Pub. L. 93–567, title I, § 101, Dec. 31, 1974, 88 Stat. 1846, and amended Pub. L. 94–444, §§ 4(b), 8(b), (c), 14(b), Oct. 1, 1976, 90 Stat. 1477, 1482, 1487, which related to the allotment of funds with regard to emergency job programs, was formerly classified to this section and was omitted from the Code in the general revision of Pub. L. 93–203 by Pub. L. 95–524. See section 964 of this title.

Provisions similar to those comprising this section were contained in former section 962 of this title prior to the general revision of Pub. L. 93–203 by Pub. L. 95–524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 965 of this title.

§ 964. Allocation of funds

(a)(1) The Secretary shall reserve an amount equal to not less than 2 percent of the amounts made available for this subchapter for any fiscal year to enable Native American entities which are eligible entities under section 966(a)(2) of this title to carry out public service employment programs.

(2) Not less than 85 percent of the amounts made available pursuant to section 962 of this title for any fiscal year shall be allocated among prime sponsors by the Secretary in accordance with the provisions of paragraph (3).

(3)(A) Fifty percent of the amount allocated under this subsection shall be allocated among prime sponsors in proportion to the relative number of unemployed persons who reside within the jurisdiction of each such prime sponsor as compared to the number of unemployed persons who reside in all the States.

(B) Twenty-five percent of the amount allocated under this subsection shall be allocated

among prime sponsors in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all areas of substantial unemployment.

(C) Twenty-five percent of the amount allocated under this subsection shall be allocated among prime sponsors on the basis of the relative excess number of unemployed persons who reside within the jurisdiction of the prime sponsor as compared to the total excess number of unemployed persons who reside within the jurisdiction of all prime sponsors. For purposes of this subparagraph, the term "excess number" means (i) the number of unemployed persons, residing in the jurisdiction of the prime sponsor, in excess of 4½ percent of the labor force residing in such jurisdiction or (ii) in the case of a prime sponsor which is a State, the greater of the number determined under clause (i) or the number of unemployed persons in excess of 4½ percent of the labor force in areas of substantial unemployment located in the jurisdiction of such prime sponsor.

(b)(1) The Secretary shall, from the remainder of the funds made available under this subchapter, first use such remainder—

(A) to provide continued support for concentrated employment program grantees serving rural areas having high levels of unemployment, and

(B) to allocate among the prime sponsors serving areas within those standard metropolitan statistical areas and central cities for which current population surveys were used to determine annual unemployment data prior to January 1, 1978, in proportion to the extent to which such prime sponsors allocations under this section and subchapter IV of this chapter are reduced as a result of termination of the use of such surveys, but in no event shall such a prime sponsor receive an amount in excess of the amount of such reduction.

The allocations required under clause (B) of this paragraph shall not be made for any fiscal year beginning on or after October 1, 1980, or until such time as the Secretary determines that current population survey data is available for use on a satisfactory basis for such areas and the remaining area of each State, whichever occurs first.

(2) The remainder of the amount made available pursuant to section 962 of this title shall be available to the Secretary for financial assistance to prime sponsors and Native American entities described in section 872(c)(1)(A) of this title as the Secretary deems appropriate, taking into account changes in rates of unemployment.

(Pub. L. 93-203, title VI, § 604, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2007.)

PRIOR PROVISIONS

A prior section 964, Pub. L. 93-203, title VI, § 604, as added Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1846, which related to special provision for areas of excessively high unemployment and for expansion of job opportunities, was formerly classified to this section and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

Provisions similar to those comprising this section were contained in former section 963 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 965. Expenditure of funds

(a) Restriction; extension of project

Fifty percent of the funds available to any prime sponsor under this subchapter may be used only for employment in projects (carried out by project applicants) planned to extend for not more than 18 months from the commencement of the project. A project may be extended for an additional 18 months if, after review of the project, the prime sponsor determines that the project has demonstrated its effectiveness in meeting the purposes of this subchapter, in accordance with regulations issued by the Secretary. Employment that is not in such projects must be at entry level.

(b) Submission of project application

Each project applicant shall submit a project application to the appropriate program agent or prime sponsor. Such application shall contain such information as required by the Secretary's regulations.

(c) Funds for training and employability counseling and services to be used for residents of area employed under this subchapter

Funds available to a prime sponsor under the second sentence of section 963(a) of this title (with respect to training and employability counseling and services) shall be utilized for residents of the area who are employed under this subchapter and who the prime sponsor determines, on the basis of an assessment of the employability of the participant, requires additional training or employability counseling or services in order to obtain unsubsidized employment.

(Pub. L. 93-203, title VI, § 605, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2008.)

PRIOR PROVISIONS

A prior section 965, Pub. L. 93-203, title VI, § 605, as added Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1847, and amended Pub. L. 94-444, § 5(b)(3), (d), Oct. 1, 1976, 90 Stat. 1480, which related to expenditure of funds with regard to emergency job programs, was formerly classified to this section and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 966. Prime sponsors and Native American entities qualified to receive financial assistance; program agents

(a) The Secretary shall provide financial assistance under this subchapter only to—

(1) prime sponsors designated under section 811(c) of this title, and

(2) Native American entities described under section 872(c)(1)(A) of this title.

(b)(1) Whenever a unit of general local government or combination of such units having a population of 50,000 or more (but less than that necessary to qualify as a prime sponsor under section 811 of this title) is within a prime sponsor's area, the prime sponsor shall, if such unit or units so desire, subgrant to such unit or

units of general local government the functions of program agent with respect to the funds allocated to such prime sponsor on account of the area served by the program agent.

(2) For purposes of this subsection, the functions of program agent include the administrative responsibility for developing, funding, overseeing, and monitoring programs within the area, but such functions shall be consistent with the annual employment and training plan and the subgrant which shall be developed by the prime sponsor in cooperation with the program agent.

(3) Whenever two or more units of general local government qualify as program agents with respect to the same area qualifying for assistance, the provisions of section 811(b)(2) of this title shall be applicable.

(Pub. L. 93-203, title VI, § 606, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2008.)

PRIOR PROVISIONS

A prior section 966, Pub. L. 93-203, title VI, § 606, as added Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1847, and amended Pub. L. 94-444, § 5(b)(2), Oct. 1, 1976, 90 Stat. 1479, which provided for reallocation of funds by the Secretary, was formerly classified to this section and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857, 904, 964 of this title.

§ 967. Eligibility

An individual eligible to be employed in a position supported under this subchapter shall be—

(1) an individual—

(A) who has been unemployed for at least 10 out of the 12 weeks immediately prior to a determination under this section, and

(B) who is unemployed at the time the determination is made; and

(2) an individual—

(A) whose family income does not exceed 100 percent of the lower living standard income level (exclusive of unemployment compensation and all Federal, State, and local income-tested or needs-tested public payments) based on the 3-month period prior to the individual's application for participation; or

(B) who is, or whose family is, receiving aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], or who is receiving supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.].

(Pub. L. 93-203, title VI, § 607, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2009.)

REFERENCES IN TEXT

The Social Security Act, referred to in par. (2)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Social Security Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. Title XVI of the Social Security Act is classified generally to subchapter XVI (§ 1381 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 967, Pub. L. 93-203, title VI, § 607, as added Pub. L. 94-444, § 5(a), Oct. 1, 1976, 90 Stat. 1477, and amended Pub. L. 95-44, § 2(c), June 15, 1977, 91 Stat. 220, which related to a reservation of funds for certain public service jobholders, was formerly classified to this section and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

Provisions similar to those comprising this section were contained in former section 968 of this title prior to the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 968. Payment of wages

Individuals employed in public service employment under this subchapter shall be paid wages in accordance with sections 824(j) and 826 of this title.

(Pub. L. 93-203, title VI, § 608, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2009.)

PRIOR PROVISIONS

A prior section 968, Pub. L. 93-203, title VI, § 608, as added Pub. L. 94-444, § 5(a), Oct. 1, 1976, 90 Stat. 1478, and amended Pub. L. 95-93, title III, § 307, Aug. 5, 1977, 91 Stat. 652, which related to the eligibility of long-term unemployed low-income persons, was formerly classified to this section and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 967 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 969 of this title.

§ 969. Wage supplementation

Public service employees (other than employees described in section 824(i)(4)(B) of this title) receiving financial assistance under this subchapter may have their wages supplemented by the payment of additional wages for such employment only under the following conditions:

(1) the total amount of funds which may be used in any fiscal year to provide such supplemental wages shall not exceed a sum equal to 10 percent of such prime sponsor's allocation under this subchapter for such fiscal year; and

(2) the supplemental wages for any public service employee under this subchapter may not exceed an amount equal to 10 percent of the maximum federally supported wage applicable for such prime sponsor area under section 968 of this title, except that, in the case of an area in which the average wage (during the calendar year preceding the beginning of the applicable fiscal year) in employment covered under Federal or State unemployment compensation laws (without regard to any limitation on the amount of such wages subject to contribution under such law) exceeds 125 percent, but does not exceed 150 percent, of the national average wage in such employment, the supplemental wages for any such employee may not exceed 20 percent of such federally supported wage.

(Pub. L. 93-203, title VI, § 609, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2009.)

PRIOR PROVISIONS

A prior section 969, Pub. L. 93-203, title VI, § 609, as added Pub. L. 94-444, § 5(a), Oct. 1, 1976, 90 Stat. 1479, which related to the approval of project applications, was formerly classified to this section and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 824 of this title.

§ 970. Utilization of funds

Funds available under this subchapter to a prime sponsor may be used, with respect to individuals qualifying for assistance under this subchapter, for programs authorized under subchapter II (other than public service employment), part A of subchapter III, subchapter IV, and subchapter VII of this chapter.

(Pub. L. 93-203, title VI, § 610, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2009.)

SUBCHAPTER VII—PRIVATE SECTOR OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 822, 823, 829, 846, 878, 879, 970 of this title.

§ 981. Congressional statement of purpose

It is the purpose of this subchapter to demonstrate the effectiveness of a variety of approaches to increase the involvement of the business community, including small business and minority business enterprises, in employment and training activities under this chapter, and to increase private sector employment opportunities for unemployed or underemployed persons who are economically disadvantaged. Employment and training opportunities for such eligible participants shall be made available by prime sponsors on an equitable basis in accordance with the purposes of this subchapter among significant segments of the eligible population giving consideration to the relative numbers of eligible persons in each such segment.

(Pub. L. 93-203, title VII, § 701, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2010.)

PRIOR PROVISIONS

A prior section 981, Pub. L. 93-203, title VII, § 701, formerly title VI, § 601, Dec. 28, 1973, 87 Stat. 876, renumbered and amended Pub. L. 93-567, title I, §§ 101, 107(a)-(c), Dec. 31, 1974, 88 Stat. 1845, 1849; Pub. L. 94-444, § 5(b)(1), Oct. 1, 1976, 90 Stat. 1479; Pub. L. 95-93, title III, § 303(e), Aug. 5, 1977, 91 Stat. 650, which defined terms for use in this chapter, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 802 of this title.

§ 982. Financial assistance

(a) The Secretary shall provide financial assistance to each prime sponsor designated under section 811(c) of this title which includes satisfactory provisions in its annual plan for subchapter II activities for carrying out the purposes of this subchapter.

(b) Ninety-five percent of the funds made available for carrying out this subchapter shall be allocated by the Secretary on an equitable basis among such prime sponsors, taking into account the factors set forth in section 842(a) of this title. The remainder of the funds made available under this subchapter shall be used by the Secretary to provide financial assistance to prime sponsors who join together to establish a single private industry council and to Native American entities described in section 872(c)(1)(A) and (B) of this title for carrying out the purposes of this subchapter.

(Pub. L. 93-203, title VII, § 702, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2010.)

PRIOR PROVISIONS

A prior section 982, Pub. L. 93-203, title VII, § 702, formerly title VI, § 602, Dec. 28, 1973, 87 Stat. 877, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845, and amended Pub. L. 94-444, § 5(c), Oct. 1, 1976, 90 Stat. 1480, which related to the legal authority of the Secretary under this chapter, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 828 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 985 of this title.

§ 983. Conditions for receipt of financial assistance

(a) Each prime sponsor, and each entity described in sections 872(c)(1)(A) and (B) of this title, desiring to receive financial assistance under this subchapter as part of its plan for subchapter II activities, shall describe its proposed private sector initiatives under this subchapter and the integration of such initiatives with other training and placement activities under this chapter. The description shall include an analysis of private sector job opportunities, including estimates by occupation, industry, and location utilizing information provided by the private industry council.

(b) The Secretary shall provide financial assistance under this subchapter to a prime sponsor, or an entity described in section 872(c)(1)(A) or (B) of this title, only if the Secretary determines that—

(1) the proposed activities for which such financial assistance is to be used are consistent with the provisions of this chapter and the regulations of the Secretary;

(2) financial assistance made available under this subchapter will be used to supplement, but not to supplant, on-the-job training and related activities carried out under other subchapters of this chapter;

(3) the private industry council will undertake to make an analysis of private sector job opportunities, including estimates by occupation, industry, and location;

(4) the private industry council has provided a copy of its proposed plan for activities under this subchapter to the prime sponsor planning council for its review and comments and the recommendations of the prime sponsor planning council were satisfactorily considered prior to the submission of the proposed plan to the Secretary;

(5) the proposed plan for activities under this subchapter has been made available to appropriate labor organizations, community-based organizations and educational agencies

for their comments prior to submission to the Secretary; and

(6) the prime sponsor and the private industry council have both agreed to the plan submitted to the Secretary and have provided assurances that no activity will be funded which does not have the approval of both the prime sponsor and the private industry council.

(c) The Secretary shall establish appropriate procedures to assure that the Department of Labor will review at the national level any proposal to make payments to private for-profit employers for any activities which are not covered by regulations under section 823(*l*) of this title or by regulations under other provisions of this chapter, and a specific waiver by the Secretary shall be required to make payments for any such activities.

(Pub. L. 93-203, title VII, § 703, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2010.)

CODIFICATION

Subsec. (c) which was originally enacted as subsec. (b) was editorially redesignated (c) for purposes of codification as the probable intent of Congress.

PRIOR PROVISIONS

A prior section 983, Pub. L. 93-203, title VII, § 703, formerly title VI, § 603, Dec. 28, 1973, 87 Stat. 878, renumbered and amended Pub. L. 93-567, title I, §§ 101, 107(d), Dec. 31, 1974, 88 Stat. 1845, 1849, which related to conditions applicable to all programs, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 823 of this title.

§ 984. Private industry councils

(a) Establishment by prime sponsor; appointment of members; coverage; "small business" defined

(1) Any prime sponsor receiving financial assistance under this subchapter shall establish a private industry council. The prime sponsor shall appoint members from industry and the business community (including small business and minority business enterprises), organized labor, community-based organizations, and educational agencies and institutions to serve on such council. Other members of the private industry council may be appointed by the prime sponsor from representatives of persons eligible to participate in activities under this subchapter. In no event shall representatives of industry and business have less than a majority on the council, and, whenever possible, at least half of such industry and business representatives shall be representatives of small business. The private industry council may consist of members of existing or newly formed organizations and members of the prime sponsor planning council. Such council may be established to cover two or more prime sponsor areas pursuant to arrangements between the prime sponsors for such areas and the council.

(2) For purposes of this subsection, the term "small business" means any private, for-profit enterprise employing 500 or fewer employees.

(b) Chairman

The chairman of the private industry council (or the designee of the chairman) shall serve as an ex officio, nonvoting member of the prime sponsor planning council, and the chairman of the prime sponsor planning council (or the designee of the chairman) shall serve as an ex officio, nonvoting member of the private industry council.

(c) Functions of councils

Such council shall participate with the prime sponsor in the development and implementation of programs under this subchapter, and shall consult with the prime sponsor with respect to other programs under this chapter. In carrying out its responsibilities, such council shall utilize, to the extent appropriate, community-based organizations, labor organizations, educational agencies and institutions, and economic development programs.

(d) Presumptive role of particular organizations

The Secretary shall not, by regulation or otherwise, require that any prime sponsor, in establishing such council, give a presumptive role to any particular organization.

(Pub. L. 93-203, title VII, § 704, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2011.)

PRIOR PROVISIONS

A prior section 984, Pub. L. 93-203, title VII, § 704, formerly title VI, § 604, Dec. 28, 1973, 87 Stat. 879, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845, and amended Pub. L. 94-444, §§ 3(b), 9, 11, Oct. 1, 1976, 90 Stat. 1476, 1482, 1483, which related to special provisions applicable to this chapter, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 825 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 813 of this title.

§ 985. Program activities

(a) Prime sponsors receiving financial assistance under this subchapter shall, consistent with section 982(b) of this title, carry out private sector initiatives to demonstrate the purposes of this subchapter. Such activities shall augment private sector-related activities under subchapter II of this chapter, including arrangements for on-the-job training with private employers, and may include—

(1) coordinating programs of jobs and training and education enabling individuals to work for a private employer while attending an education or training program;

(2) developing a small business intern program to provide a practical training enabling youths and other individuals to work in small business firms to acquire first-hand knowledge and management experience about small business;

(3) developing relationships between employment and training programs, educational institutions, and the private sector;

(4) developing useful methods for collecting information about Federal Government procurement contracts with private employers, new and planned publicly supported projects such as public works, economic development and community development programs, transportation revitalization, alternative energy technology development, demonstration, and utilization projects, energy conservation proj-

ects, and rehabilitation of low income housing as part of a community revitalization or stabilization effort, which provide work through private sector contractors;

(5) conducting innovative cooperative education programs for youths in secondary and postsecondary schools designed to coordinate educational programs with work in the private sector;

(6) developing and marketing model contracts designed to reduce the administrative burden on the employer and model contracts to meet the needs of specific occupations and industries;

(7) coordinating programs under this subchapter with other job development, placement, and employment and training activities carried out by public and private agencies;

(8) providing on-the-job training subsidies on a declining ratio to wages over the period of training;

(9) providing followup services with employees placed in private employment and employers who hire recipients of services under this chapter;

(10) encouraging employers to develop job skill requirement forecasts and to coordinate such forecasts with prime sponsors;

(11) using direct contracts for training and employment programs with private for profit and private nonprofit organizations;

(12) developing apprenticeship or comparable high-skill training programs for workers regardless of age in occupations where such programs do not exist presently in the area;

(13) increasing opportunities for upgrading from entry level jobs by providing counseling and other services to employees and employers beyond initial training periods;

(14) providing technical assistance to private employers to reduce the administrative burden of employment and training programs; and

(15) disseminating information to private employers so that they may more fully utilize programs under this chapter.

(b)(1) The Secretary shall establish such procedures and regulations as may be necessary to assure that the total amount of administrative costs incurred by all prime sponsors in carrying out programs under this subchapter does not exceed 20 percent of the total cost of carrying out all such programs.

(2) The Secretary by regulation shall provide for necessary and reasonable limitations on administrative costs incurred by prime sponsors, which shall be designed to assure the effective operation of programs carried out by prime sponsors under this subchapter, taking into account differing conditions in urban and rural areas. The administrative costs of any prime sponsor carrying out a program under this subchapter may not exceed the limitations established by the Secretary under this paragraph, unless such excess costs are justified and documented in the approval of the prime sponsor's program.

(Pub. L. 93-203, title VII, § 705, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2012.)

PRIOR PROVISIONS

A prior section 985, Pub. L. 93-203, title VII, § 705, formerly title VI, § 605, Dec. 28, 1973, 87 Stat. 879, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845, which provided for reports to the President and Congress, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 829 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 3151.

§ 986. Report to Congress; dissemination of information to prime sponsors

(a) The Secretary shall provide to the Congress by March 1, 1980, an evaluation of the activities conducted under this subchapter accompanied by recommendations for legislation.

(b) The Secretary shall disseminate among prime sponsors information concerning successful programs under this subchapter.

(Pub. L. 93-203, title VII, § 706, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2013.)

PRIOR PROVISIONS

A prior section 986, Pub. L. 93-203, title VII, § 706, formerly title VI, § 606, Dec. 28, 1973, 87 Stat. 880, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845, which related to labor standards, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 827 of this title.

Section 987 of this title, Pub. L. 93-203, title VII, § 707, formerly title VI, § 607, Dec. 28, 1973, 87 Stat. 880, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845, which related to the authority of the Secretary to accept gifts in the name of the Department, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 830 of this title.

Section 988 of this title, Pub. L. 93-203, title VII, § 708, formerly title VI, § 608, Dec. 28, 1973, 87 Stat. 881, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845, which related to the use of the services and facilities of departments, agencies, and establishments of the United States by the Secretary, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 831 of this title.

Section 989 of this title, Pub. L. 93-203, title VII, § 709, formerly title VI, § 609, Dec. 28, 1973, 87 Stat. 881, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845, which related to interstate agreements, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 832 of this title.

Section 990 of this title, Pub. L. 93-203, title VII, § 710, formerly title VI, § 610, Dec. 28, 1973, 87 Stat. 881, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845, which related to a prohibition concerning political activities, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 833 of this title.

SUBCHAPTER VIII—YOUNG ADULT CONSERVATION CORPS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 822 of this title.

§ 991. Congressional statement of purpose

It is the purpose of this subchapter to establish a Young Adult Conservation Corps to provide employment and other benefits to youths

who would not otherwise be currently productively employed, through a period of service during which they engage in useful conservation work and assist in completing other projects of a public nature on Federal and non-Federal public lands and waters.

(Pub. L. 93-203, title VIII, § 801, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2013.)

PRIOR PROVISIONS

A prior section 991, Pub. L. 93-203, title VII, § 712, formerly title VI, § 612, Dec. 28, 1973, 87 Stat. 882, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845, which related to a prohibition concerning discrimination, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 834 of this title.

A prior section 801 of Pub. L. 93-203, title VIII, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 627, which provided for a congressional declaration of purpose with regard to the Young Adult Conservation Corps, was formerly classified to section 993 of this title and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 992. Establishment

To carry out the purposes of this subchapter, there is hereby established a Young Adult Conservation Corps to carry out projects on Federal or non-Federal public lands or waters. The Secretary shall administer this subchapter through interagency agreements with the Secretaries of the Interior and Agriculture. Pursuant to such interagency agreements, the Secretaries of the Interior and Agriculture shall have responsibility for the management of each Corps center, including determination of Corps members' work assignments, selection, training, discipline, and termination, and shall be responsible for an effective program at each center.

(Pub. L. 93-203, title VIII, § 802, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2013.)

PRIOR PROVISIONS

A prior section 992, Pub. L. 93-203, title VII, § 713, formerly title VI, § 613, Dec. 28, 1973, 87 Stat. 882, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845, which related to records, audits, and reports, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 835 of this title.

A prior section 802 of Pub. L. 93-203, title VIII, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 627, which provided for the establishment of the Young Adult Conservation Corps, was formerly classified to section 993a of this title and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 993. Enrollees

(a) Selection by Secretaries of Interior and Agriculture

Enrollees of the Corps shall be selected by the Secretaries of the Interior and Agriculture only from candidates referred by the Secretary.

(b) Membership in Corps

(1) Membership in the Corps shall be limited to individuals who, at the time of enrollment—

(A) are unemployed;

(B) are between the ages 16 to 23 inclusive;

(C) are citizens or lawfully permanent residents of the United States or lawfully admitted refugees or parolees; and

(D) are capable, as determined by the Secretary, of carrying out the work of the Corps for the estimated duration of each such individual's enrollment.

(2) Individuals who, at the time of enrollment, have attained age 16 but not attained age 19 and who have left school shall not be admitted to membership in the Corps unless they give adequate assurance, under criteria established by the Secretary, that they did not leave school for the purpose of enrolling in the Corps and obtaining employment under this subchapter.

(c) Referral of candidates

The Secretary shall make arrangements for obtaining referral of candidates for the Corps from the public employment service, public assistance agencies, prime sponsors, sponsors of Native American programs described in section 872 of this title, sponsors of migrant and seasonal farmworker programs under section 873 of this title, the Secretaries of the Interior and Agriculture, and such other agencies and organizations as the Secretary may deem appropriate. The Secretary of Labor shall undertake to assure that an equitable proportion of candidates shall be referred from each State.

(d) Preferences to youths residing in rural and urban areas of substantial unemployment

In referring candidates from each State in accordance with subsection (c) of this section, preference shall be given to youths residing in rural and urban areas within each such State having substantial unemployment including areas of substantial unemployment as defined in section 802 of this title.

(e) Maximum period of enrollment

(1) No individual may be enrolled in the Corps for a total period of more than 12 months, with such maximum period consisting of either 1 continuous 12-month period, or 3 or less periods which total 12 months, except that an individual who attains the maximum permissible enrollment age may continue in the Corps up to the 12-month limit provided in this subsection only as long as the individual's enrollment is continuous after having attained the maximum age.

(2) No individual shall be enrolled in the Corps if solely for purposes of membership for the normal period between school terms.

(Pub. L. 93-203, title VIII, § 803, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2013.)

PRIOR PROVISIONS

A prior section 993, Pub. L. 93-203, title VIII, § 801, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 627, which provided for a congressional declaration of purpose with regard to the Young Adult Conservation Corps, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 991 of this title.

A prior section 803 of Pub. L. 93-203, title VIII, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 627, which related to the selection of enrollees, was formerly classified to section 993b of this title and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

Section 993a of this title, Pub. L. 93-203, title VIII, § 802, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977,

91 Stat. 627, which related to establishment of a Young Adult Conservation Corps, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 992 of this title.

Section 993b of this title, Pub. L. 93-203, title VIII, § 803, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 627, which related to the selection of enrollees of the Young Adult Conservation Corps, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 993 of this title.

Section 993c of this title, Pub. L. 93-203, title VIII, § 804, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 628, which related to activities of the Young Adult Conservation Corps, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 994 of this title.

Section 993d of this title, Pub. L. 93-203, title VIII, § 805, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 629, which related to conditions applicable to Young Adult Conservation Corps enrollees, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 995 of this title.

Section 993e of this title, Pub. L. 93-203, title VIII, § 806, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 630, which related to State and local programs, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 996 of this title.

Section 993f of this title, Pub. L. 93-203, title VIII, § 807, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 631, which related to an annual report to the President and Congress, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 997 of this title.

Section 993g of this title, Pub. L. 93-203, title VIII, § 808, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 631, which related to a prohibition concerning discrimination, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 998 of this title.

Section 993h of this title, Pub. L. 93-203, title VIII, § 809, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 631, which related to a transfer of funds pursuant to an interagency agreement, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 999 of this title.

Section 993i of this title, Pub. L. 93-203, title VIII, § 810, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 631, which related to authorization of appropriations for the Young Adult Conservation Corps program, was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524. See section 822 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 996 of this title.

§ 994. Activities of Corps

(a) Determination of location of Corps centers; work project fields

Consistent with each interagency agreement, the Secretary of the Interior or Agriculture, as appropriate, in consultation with the Secretary of Labor shall determine the location of each residential and nonresidential Corps center. The Corps shall perform work projects in such fields as—

(1) tree nursery operations, planting, pruning, thinning, and other silviculture measures;

(2) wildlife habitat improvements and preservation;

(3) range management improvements;

(4) recreation development, rehabilitation, and maintenance;

(5) fish habitat and culture measures;

(6) forest insect and disease prevention and control;

(7) road and trail maintenance and improvements;

(8) general sanitation, cleanup, and maintenance;

(9) erosion control and flood damage;

(10) drought damage measures;

(11) other natural disaster damage measures; and

(12) integrated pest management, including activities to provide the producers of agricultural commodities with information about the appropriate amount of chemical pesticides which, when used in conjunction with nonchemical methods of pest control (A) will provide protection against a wide variety of pests, (B) will preserve to the greatest extent possible the quality of the environment, and (C) will be cost effective.

(b) Standards for work projects

(1) The Secretary of the Interior and the Secretary of Agriculture shall undertake to assure that projects on which work is performed under this subchapter are consistent with the Forest and Rangeland Renewal Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 [16 U.S.C. 1600 et seq.] and such other standards relating to such projects as each Secretary shall prescribe consistent with other provisions of Federal law (including the Fish and Wildlife Conservation Act; 16 U.S.C. 601[1]).

(2) The Secretary of the Interior and the Secretary of Agriculture shall place individuals employed as Corps members into jobs which will diminish the backlog of relatively labor intensive projects which would otherwise be carried out if adequate funding were made available.

(c) Project requirements

To the maximum extent practicable, projects shall—

(1) be labor intensive;

(2) be projects for which work plans could be readily developed;

(3) be able to be initiated promptly;

(4) be productive;

(5) be likely to have a lasting impact both as to the work performed and the benefit to the youths participating;

(6) provide work experience to participants in skill areas required for the projects;

(7) if a residential program, be located, to the maximum extent consistent with the objectives of this subchapter in areas where existing residential facilities for the Corps members are available; and

(8) be similar to activities of persons employed in seasonal and part-time employment in agencies such as the National Park Service, United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Bureau of Outdoor Recreation, and Soil Conservation Service.

---

[1] So in original. Probably should be "661".

(d) Agreements providing for transportation, lodging, medical treatment, facilities, etc.; use of Federal, State, and local government facilities and equipment

(1) The Secretary of the Interior and the Secretary of Agriculture, pursuant to agreements with the Secretary, may provide for such transportation, lodging, subsistence, medical treatment, and other services, supplies, equipment, and facilities as they may deem appropriate to carry out the purposes of this subchapter. To minimize transportation costs, Corps members shall be assigned to projects as near to their homes as practicable.

(2) Whenever economically feasible, existing but unoccupied or underutilized Federal, State, and local government facilities and equipment of all types shall, where appropriate, be utilized for the purposes of the Corps centers with the approval of the Federal agency, State, or local government involved.

(e) Arrangements providing for academic credit for competencies derived from work experiences obtained through programs under this subchapter

The Secretary, in carrying out the purpose of this subchapter shall cooperate with the Secretary of Health, Education, and Welfare to make suitable arrangements whereby academic credit may be awarded by educational institutions and agencies for competencies derived from work experience obtained through programs established under this subchapter.

(Pub. L. 93-203, title VIII, § 804, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2014.)

REFERENCES IN TEXT

The Forest and Rangeland Renewal Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, referred to in subsec. (b)(1), probably means the Forest and Rangeland Renewable Resources Planning Act of 1974, Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (§ 1600 et seq.) of chapter 36 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of Title 16 and Tables.

The Fish and Wildlife Conservation Act; 16 U.S.C. 601, referred to in subsec. (b)(1), probably means the Fish and Wildlife Coordination Act, Mar. 10, 1934, ch. 55, 48 Stat. 401, as amended, which is classified generally to sections 661 to 666c of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 16 and Tables.

PRIOR PROVISIONS

A prior section 804 of Pub. L. 93-203, title VIII, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 628, which related to activities of the Young Adult Conservation Corps, was formerly classified to section 993c of this title and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

CHANGE OF NAME

The Secretary of Health, Education, and Welfare was redesignated the Secretary of Health and Human Services by section 3508 of Title 20, Education.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 996 of this title.

§ 995. Conditions applicable to Corps enrollees

(a) Except as otherwise specifically provided in this subsection, Corps members shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits:

(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), Corps members shall be deemed employees of the United States and any service performed by a person as a Corps member shall be deemed to be performed in the employ of the United States.

(2) For purposes of subchapter 1 of chapter 81 of title 5, relating to compensation to Federal employees for work injuries, Corps members shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, and provisions of that subchapter shall apply, except that the term "performance of duty" shall not include any act of a Corps member while absent from the member's assigned post of duty, except while participating in an activity (including an activity while on pass or during travel to or from such post of duty) authorized by or under the direction and supervision of the Secretary.

(3) For purposes of chapter 171 of title 18,[1] relating to tort claims procedure, Corps members shall be deemed civil employees of the United States within the meaning of the term "employee of the Government" as defined in section 2671 of title 28, and provisions of that chapter shall apply.

(4) For purposes of section 5911 of title 5, relating to allowances for quarters, Corps members shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in that section, and provisions of that section shall apply.

(b) The Secretary shall, in consultation with the Secretaries of the Interior and Agriculture, establish standards for—

(1) rates of pay which shall be at least at the wage required by section 206(a)(1) of this title;

(2) reasonable hours and conditions of employment; and

(3) safe and healthful working and living conditions.

(Pub. L. 93-203, title VIII, § 805, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2015.)

REFERENCES IN TEXT

The Internal Revenue Code of 1954, referred to in subsec. (a)(1), is classified generally to Title 26, Internal Revenue Code.

The Social Security Act, referred to in subsec. (a)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

[1] So in original. Should be "title 28".

PRIOR PROVISIONS

A prior section 805 of Pub. L. 93-203, title VIII, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 629, which related to conditions applicable to Young Adult Conservation Corps enrollees, was formerly classified to section 993d of this title and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 996 of this title.

§ 996. State and local programs

(a) Grants or agreements for conduct of components of Corps or Corps projects

Consistent with interagency agreements with the Secretary, the Secretaries of the Interior and Agriculture may make grants or enter into other agreements—

(1) after consultation with the Governor, with any State agency or institution;

(2) after consultation with appropriate State and local officials, with (A) any unit of general local government, or (B)(i) any public agency or organization, specifically including the Federal Extension Service and the cooperative extension service of any State with respect to projects described in section 994(a)(12) of this title, or (ii) any private nonprofit agency or organization which has been in existence for at least 2 years;

for the conduct under this subchapter of any State or local component of the Corps or of any project on non-Federal lands or waters or any project involving work on both non-Federal and Federal lands and waters.

(b) Submission of application as prerequisite to making grants or entering into agreements; contents

No grant or other agreement may be entered into under this section unless an application is submitted to the Secretary of the Interior or the Secretary of Agriculture, as the case may be, at such times as each such Secretary may prescribed. Each grant application shall contain assurances that individuals employed under the project for which the application is submitted—

(1) meet the qualifications set forth in section 993(b) of this title;

(2) shall be employed in accordance with section 995(b) of this title; and

(3) shall be employed in activities that—

(A) will result in an increase in employment opportunities over those opportunities which would otherwise be available,

(B) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of nonovertime work or wages or employment benefits),

(C) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed,

(D) will not substitute jobs assisted under this subchapter for existing federally assisted jobs, and

(E) will not result in the hiring of any youth when any other person is on layoff from the same or any substantially equivalent job.

(c) Funds available for grants

Thirty percent of the sums appropriated to carry out this subchapter for any fiscal year shall be made available for grants under this section for such fiscal year and shall be made on the basis of total youth population within each State.

(Pub. L. 93-203, title VIII, § 806, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2016.)

PRIOR PROVISIONS

A prior section 806 of Pub. L. 93-203, title VIII, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 630, which related to State and local programs, was formerly classified to section 993e of this title and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 997. Report to President and Congress

The Secretary, the Secretary of the Interior, and the Secretary of Agriculture shall jointly prepare and submit to the President and to the Congress a report detailing the activities carried out under this subchapter for each fiscal year. Such report shall be submitted not later than February 1 of each year following October 27, 1978. The Secretaries shall include in such report such recommendations as they deem appropriate.

(Pub. L. 93-203, title VIII, § 807, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2017.)

CODIFICATION

October 27, 1978, referred to in text, read in the original "the date of enactment of this Act" which has been translated as the date of enactment of Pub. L. 95-524, Oct. 27, 1978, 92 Stat. 2017, as the probable intent of Congress.

PRIOR PROVISIONS

A prior section 807 of Pub. L. 93-203, title VIII, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 631, which related to an annual report to the President and the Congress, was formerly classified to section 993f of this title and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 998. Antidiscrimination

The Corps shall be open to youth from all parts of the Nation of both sexes and youth of all social, economic, and racial classifications.

(Pub. L. 93-203, title VIII, § 808, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2017.)

PRIOR PROVISIONS

A prior section 808 of Pub. L. 93-203, title VIII, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 631, which related to a prohibition concerning discrimination, was formerly classified to section 993g of this title and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

§ 999. Transfer of funds

Funds necessary to carry out their responsibilities under this subchapter shall be made available to the Secretaries of the Interior and Agriculture in accord with interagency agreements between the Secretary of Labor and the Secretaries of the Interior and Agriculture.

(Pub. L. 93-203, title VIII, § 809, as added Pub. L. 95-524, § 2, Oct. 27, 1978, 92 Stat. 2017.)

PRIOR PROVISIONS

A prior section 809 of Pub. L. 93-203, title VIII, as added Pub. L. 95-93, title I, § 101, Aug. 5, 1977, 91 Stat. 631, which related to a transfer of funds pursuant to an interagency agreement, was formerly classified to section 993h of this title and was omitted from the Code in the general revision of Pub. L. 93-203 by Pub. L. 95-524.

USE OF FUNDS AVAILABLE FROM APPROPRIATIONS UNDER ECONOMIC STIMULUS APPROPRIATIONS ACT OF 1977

Section 301 of Pub. L. 95-93, title III, Aug. 5, 1977, 91 Stat. 650, provided that: "In order to provide for an orderly transition to youth employment and training activities funded under part C of title III [former part C of subchapter III of this chapter, now covered by section 893 et seq. of this title] and title VIII of the Comprehensive Employment and Training Act of 1973 (as added by this Act) [former subchapter VIII of this chapter, now covered by this subchapter], the Secretary of Labor shall use the funds available from appropriations under the Economic Stimulus Appropriations Act of 1977 [Pub. L. 95-29, May 13, 1977, 91 Stat. 122] for youth employment and training activities, to the maximum extent consistent with law, in such a manner as to be in accordance with the provisions of such part C and such title VIII."

CHAPTER 18—EMPLOYEE RETIREMENT INCOME SECURITY PROGRAM

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 441 of this title; title 18 section 1027; title 20 section 1085; title 26 section 412; title 31 section 68c, title 45 section 743.

SUBCHAPTER I—PROTECTION OF EMPLOYEE BENEFIT RIGHTS

SUBTITLE A—GENERAL PROVISIONS

§ 1001. Congressional findings and declaration of policy

PRESIDENT'S COMMISSION ON PENSION POLICY; EXTENSION OF TERM; CONTINUATION OF EFFORT

Pub. L. 96-14, May 24, 1979, 93 Stat. 29, provided:

"That this Act may be cited as the 'Pension Policy Commission Act'.

"SEC. 2. (a) The President's Commission on Pension Policy (hereinafter in this Act referred to as the 'Commission'), established by Executive Order Numbered 12071, effective September 21, 1978 [set out as a note below], is authorized to continue in operation for two years following the date of enactment of this Act [May 24, 1979].

"(b) During the period the Commission continues in operation the Commission shall—

"(1) issue reports on problems facing the Nation's retirement systems,

"(2) formulate recommendations for a national retirement income policy, and

"(3) consult on a regular basis with committees of the Senate, the House of Representatives, and the Congress having jurisdiction over the Commission's work.

"(c) The Commission shall submit a final report, including its recommendations and findings, to the President and the Congress. The Commission shall cease to exist ninety days after submission of its final report. All reports and papers of the Commission shall be delivered to the Administrator of General Services for deposit in the Archives of the United States.

"(d) In carrying out its functions under this Act, and in making its findings and recommendations under subsection (c), the Commission shall seek to ensure that it maintains its independence from other officers and employees of the Government and any other person with special interest in its actions.

"SEC. 3. (a)(1) The eleven members of the Commission appointed by the President before the date of the enactment of this Act [May 24, 1979], including the Chairman, may continue to serve for the duration of the Commission.

"(2)(A) An appointment to a vacancy in the position of chairman of the Commission shall be made by the President, by and with the advice and consent of the Senate.

"(B) An appointment to any other vacancy in the membership of the Commission shall be made by the President after consultation with the Congress.

"(C) All appointments to vacancies in the membership of the Commission shall be made in such a manner as to ensure that the Commission remains balanced in terms of the points of view represented and the functions performed by it.

"(3) A quorum of the Commission shall consist of six members, except that the Commission may establish a lower number as a quorum for the purpose of taking testimony. The Commission is authorized to establish committees, and to delegate authority to them, when necessary to carry out its functions.

"(4) Members of the Commission who are full-time officers or employees of the United States shall serve without additional compensation, but shall continue to receive the salary of their regular positions when engaged in the performance of duties of the Commission.

"(5) When engaged in the performance of duties of the Commission, members of the Commission who are not full-time officers or employees of the United States shall be compensated at the maximum daily rate for GS-18 of the General Schedule [set out as a note under section 5332 of Title 5, Government Organization and Employees].

"(6) All members of the Commission who are not otherwise employed by the Federal Government shall be reimbursed for travel expenses, including per diem in lieu of subsistence, incurred in the performance of duties of the Commission, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(b) Subject to such rules as may be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service [see section 3301 et seq. of Title 5], and without regard to the provisions of chapter 51, subchapter III of chapter 53, and chapter 54 of that title, relating to classification and pay, is authorized to—

"(1) appoint an Executive Director who shall be compensated at a rate not to exceed the rate in effect for level V of the Executive Schedule set forth in section 5316 of title 5, United States Code;

"(2) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act, except that in no case shall employees be compensated at a rate in excess of the rate provided for employees in GS-17 of the General Schedule [set out as a note under section 5332 of Title 5]; and

"(3) procure such temporary and intermittent services of experts and consultants as are necessary, as authorized by section 3109 of title 5, United States Code.

"(c) The Commission is authorized to accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, but such personnel shall not be considered Federal employees for any purpose other than for purposes of chapter 81 of title 5, United States Code, and for purposes of sections 2671 through 2680 of title 28, United States Code.

"(d) Upon request of the Commission, the head of any executive department, agency or independent establishment of the United States is authorized to detail on a nonreimbursable basis its employees to the Commission to assist it in carrying out its duties.

"(e) Financial and administrative services (including those related to budget and accounting, financial reporting, personnel, and procurement) shall be provided to the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement, from funds of the Commission, in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services.

"SEC. 4. (a) Upon the request of the Commission, the head of each executive department, agency, or independent establishment of the United States that has an interest in or a responsibility with respect to the areas of the Commission's work shall appoint a liaison officer who shall work closely with the Commission and its staff in matters relating to such areas.

"(b) In carrying out its duties, the Commission may seek the advice of individuals and groups interested in retirement, survivor, and disability policies including, but not limited to, State and local governments and public and private organizations working on such matters.

"(c)(1) The Commission or, on authorization of the Commission, any committee of two or more members, may hold hearings and sit and act at such times and places as the Commission or such authorized committee may find advisable, and the provisions of section 1321 of title 28, United States Code, shall apply to witnesses invited to appear at hearings, and per diem and mileage allowances to witnesses shall be paid from funds appropriated to the Commission.

"(2) The Commission is authorized to secure from any executive department, agency or independent establishment of the United States, information necessary to carry out its functions. Upon request of the Commission, the head of any executive department, agency or independent establishment shall furnish such information to the extent provided by law.

"(d) The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

"(e) The Commission is authorized to enter into contracts with Federal and State agencies, private firms, institutions, and individuals for the conduct of research and surveys, the preparation of reports, and other activities necessary for the carrying out of its duties and responsibilities.

"SEC. 5. There is authorized to be appropriated beginning with fiscal year 1980, $2,000,000 to carry out the provisions of this Act, which shall remain available until expended."

REORGANIZATION PLAN NO. 4 OF 1978

43 F.R. 47713, 92 Stat. 3790

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, August 10, 1978, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.[1]

EMPLOYEE RETIREMENT INCOME SECURITY ACT TRANSFERS

SECTION 101. TRANSFER TO THE SECRETARY OF THE TREASURY

Except as otherwise provided in Sections 104 and 106 of this Plan, all authority of the Secretary of Labor to issue the following described documents pursuant to the statutes hereinafter specified is hereby transferred to the Secretary of the Treasury:

(a) regulations, rulings, opinions, variances and waivers under Parts 2 [section 1051 et seq. of this title] and 3 [section 1081 et seq. of this title] of Subtitle B of Title I and subsection 1012(c) [set out as a note under section 411 of Title 26. Internal Revenue Code] of Title II of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 note) (hereinafter referred to as "ERISA").

EXCEPT for sections and subsections 201, 203(a)(3)(B), 209, and 301(a) of ERISA; [sections 1051, 1053(a)(3)(B), 1059, and 1081(a) of this title];

(b) such regulations, rulings, and opinions which are granted to the Secretary of Labor under Sections 404, 410, 411, 412, and 413 of the Internal Revenue Code of 1954, as amended [sections 404, 410, 411, 412, and 413 of Title 26, Internal Revenue Code], (hereinafter referred to as the "Code").

EXCEPT for subsection 411(a)(3)(B) of the Code [section 411(a)(3)(B) of Title 26] and the definitions of "collectively bargained plan" and "collective bargaining agreement" contained in subsections 404 (a)(1)(B) and (a)(1)(C), 410 (b)(2)(A) and (b)(2)(B), and 413(a)(1) of the Code [sections 404(a)(1)(B) and (a)(1)(C), 410 (b)(2)(A) and (b)(2)(B), and 413(a)(1) of Title 26]; and

(c) regulations, rulings, and opinions under subsections 3(19), 3(22), 3(23), 3(24), 3(25), 3(27), 3(28), 3(29), 3(30), and 3(31) of Subtitle A of Title I of ERISA [section 1002(19), (22), (23), (24), (25), (27), (28), (29), (30), and (31) of this title].

SEC. 102. TRANSFER TO THE SECRETARY OF LABOR

Except as otherwise provided in Section 105 of this Plan, all authority of the Secretary of the Treasury to issue the following described documents pursuant to the statutes hereinafter specified is hereby transferred to the Secretary of Labor;

(a) regulations, rulings, opinions, and exemptions under section 4975 of the Code [section 4975 of Title 26],

EXCEPT for (i) subsections 4975 (a), (b), (c)(3), (d)(3), (c)(1), and (e)(7) of the Code [section 4975 (a), (b), (c)(3), (d)(3), (e)(1), and (e)(7) of Title 26]; (ii) to the extent necessary for the continued enforcement of subsections 4975 (a) and (b) [section 4975 (a) and (b) of Title 26] by the Secretary of the Treasury, subsections 4975(f)(1), (f)(2), (f)(4), (f)(5) and (f)(6) of the Code [section 4975 (f)(1), (f)(2), (f)(4), (f)(5) and (f)(6) of Title 26]; and (iii) exemptions with respect to transactions that are exempted by subsection 404(c) of ERISA [section 1104(c) of this title] from the provisions of Part 4 of Subtitle B of Title I of ERISA [section 1101 et seq. of this title]; and

(b) regulations, rulings, and opinions under subsection 2003(c) of ERISA [set out as a note under section 4975 of Title 26].

EXCEPT for subsection 2003(c)(1)(B) [set out in the note under section 4975 of Title 26].

SEC. 103. COORDINATION CONCERNING CERTAIN FIDUCIARY ACTIONS

In the case of fiduciary actions which are subject to Part 4 of Subtitle B of Title I of ERISA [section 1101 et seq. of this title], the Secretary of the Treasury shall notify the Secretary of Labor prior to the time of commencing any proceeding to determine whether the action violates the exclusive benefit rule of subsection 401(a) of the Code [section 401(a) of Title 26], but not later than prior to issuing a preliminary notice of intent to disqualify under that rule, and the Secretary of the Treasury shall not issue a determination that a plan or trust does not satisfy the requirements of subsection 401(a) by reason of the exclusive benefit rule of subsection 401(a), unless within 90 days after the date on which the Secretary of the Treasury notifies the Secretary of Labor of pending action, the Secretary of Labor certifies that he has no objection to the disqualification or the Secretary of Labor fails to respond to the Secretary of the Treasury. The requirements of this paragraph do not apply in the case of any termination or jeopardy assessment under sections 6851 or 6861 of the Code [sections 6851 or 6861 of Title 26] that has been approved in advance by the Commissioner of Internal Revenue, or, as delegated,

[1] As amended September 20, 1978.

the Assistant Commissioner for Employee Plans and Exempt Organizations.

SEC. 104. ENFORCEMENT BY THE SECRETARY OF LABOR

The transfers provided for in Section 101 of this Plan shall not affect the ability of the Secretary of Labor, subject to the provisions of Title III of ERISA [section 1201 et seq. of this title] relating to jurisdiction, administration, and enforcement, to engage in enforcement under Section 502 of ERISA [section 1132 of this title] or to exercise the authority set forth under Title III of ERISA, including the ability to make interpretations necessary to engage in such enforcement or to exercise such authority. However, in bringing such actions and in exercising such authority with respect to Parts 2 [section 1051 et seq. of this title] and 3 [section 1081 et seq. of this title] of Subtitle B of Title I of ERISA and any definitions for which the authority of the Secretary of Labor is transferred to the Secretary of the Treasury as provided in Section 101 of this Plan, the Secretary of Labor shall be bound by the regulations, rulings, opinions, variances, and waivers issued by the Secretary of the Treasury.

SEC. 105. ENFORCEMENT BY THE SECRETARY OF THE TREASURY

The transfers provided for in Section 102 of this Plan shall not affect the ability of the Secretary of the Treasury, subject to the provisions of Title III of ERISA [section 1201 et seq. of this title] relating to jurisdiction, administration, and enforcement, (a) to audit plans and employers and to enforce the excise tax provisions of subsections 4975(a) and 4975(b) of the Code [section 4975(a) and (b) of Title 26], to exercise the authority set forth in subsections 502(b)(1) and 502(h) of ERISA [section 1132(b)(1) and (h) of this title], or to exercise the authority set forth in Title III of ERISA, including the ability to make interpretations necessary to audit, to enforce such taxes, and to exercise such authority; and (b) consistent with the coordination requirements under Section 103 of this Plan, to disqualify, under section 401 of the Code [section 401 of Title 26], a plan subject to Part 4 of Subtitle B of Title I of ERISA [section 1101 et seq. of this title], including the ability to make the interpretations necessary to make such disqualification. However, in enforcing such excise taxes and, to the extent applicable, in disqualifying such plans the Secretary of the Treasury shall be bound by the regulations, rulings, opinions, and exemptions issued by the Secretary of Labor pursuant to the authority transferred to the Secretary of Labor as provided in Section 102 of this Plan.

SEC. 106. COORDINATION FOR SECTION 101 TRANSFER

(a) The Secretary of the Treasury shall not exercise the functions transferred pursuant to Section 101 of this Plan to issue in proposed or final form any of the documents described in subsection (b) of this Section in any case in which such documents would significantly impact on or substantially affect collectively bargained plans unless, within 100 calendar days after the Secretary of the Treasury notifies the Secretary of Labor of such proposed action, the Secretary of Labor certifies that he has no objection or he fails to respond to the Secretary of the Treasury. The fact of such a notification, except for such notification for documents described in subsection (b)(iv) of this Section, from the Secretary of the Treasury to the Secretary of Labor shall be announced by the Secretary of Labor to the public within ten days following the date of receipt of the notification by the Secretary of Labor.

(b) The documents to which this Section applies are:

(i) amendments to regulations issued pursuant to subsections 202(a)(3), 203(b)(2) and (3)(A), 204(b)(3)(A), (C), and (E), and 210(a)(2) of ERISA [sections 1052(a)(3), 1053(b)(2) and (3)(A), 1054(b)(3)(A), (C), and (E), and 1060(a)(2) of this title], and subsections 410(a)(3) and 411(a)(5), (6)(A), and (b)(3)(A), (C), and (E), 413(b)(4) and (c)(3) and 414(f) of the Code [section 410(a)(3) and 411(a)(5), (6)(A), and (b)(3)(A), (C), and (E), 413 (b)(4) and (c)(3) and 414(f) of Title 26];

(ii) regulations issued pursuant to subsections 204(b)(3)(D), 302(c)(8), and 304(a) and (b)(2)(A) of ERISA [sections 1054(b)(3)(D), 1082(c)(8), and 1084(a) and (b)(2)(A) of this title], and subsections 411(b)(3)(D), 412(c)(8), (e), and (f)(2)(A) of the Code [sections 411(b)(3)(D), 412(c)(8), (e), and (f)(2)(A) of Title 26]; and

(iii) revenue rulings (within the meaning of 26 CFR Section 601.201(a)(6)), revenue procedures, and similar publications, if the rulings, procedures and publications are issued under one of the statutory provisions listed in (i) and (ii) of this subsection; and

(iv) rulings (within the meaning of 26 CFR Section 601.201(a)(2)) issued prior to the issuance of a published regulation under one of the statutory provisions listed in (i) and (ii) of this subsection and not issued under a published Revenue Ruling.

(c) For those documents described in subsections (b)(i), (b)(ii) and (b)(iii) of this Section, the Secretary of Labor may request the Secretary of the Treasury to initiate the actions described in this Section 106 of this Plan.

SEC. 107. EVALUATION

On or before January 31, 1980, the President will submit to both Houses of the Congress an evaluation of the extent to which this Reorganization Plan has alleviated the problems associated with the present administrative structure under ERISA, accompanied by specific legislative recommendations for a long-term administrative structure under ERISA.

SEC. 108. INCIDENTAL TRANSFERS

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of any agencies abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

SEC. 109. EFFECTIVE DATE

The provisions of this Reorganization Plan shall become effective at such time or times, on or before April 30, 1979, as the President shall specify, but not sooner than the earliest time allowable under Section 906 of Title 5, United States Code.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

Today I am submitting to the Congress my fourth Reorganization Plan for 1978. This proposal is designed to simplify and improve the unnecessarily complex administrative requirements of the Employee Retirement Income Security Act of 1974 (ERISA) [see Short Title note set out under this section]. The new plan will eliminate overlap and duplication in the administration of ERISA and help us achieve our goal of well regulated private pension plans.

ERISA was an essential step in the protection of worker pension rights. Its administrative provisions,

however, have resulted in bureaucratic confusion and have been justifiably criticized by employers and unions alike. The biggest problem has been overlapping jurisdictional authority. Under current ERISA provisions, the Departments of Treasury and Labor both have authority to issue regulations and decisions.

This dual jurisdiction has delayed a good many important rulings and, more importantly, produced bureaucratic runarounds and burdensome reporting requirements.

The new plan will significantly reduce these problems. In addition, both Departments are trying to cut red tape and paperwork, to eliminate unnecessary reporting requirements, and to streamline forms wherever possible.

Both Departments have already made considerable progress, and both will continue the effort to simplify their rules and their forms.

The Reorganization Plan is the most significant result of their joint effort to modify and simplify ERISA. It will eliminate most of the jurisdictional overlap between Treasury and Labor by making the following changes:

1) Treasury will have statutory authority for minimum standards. The new plan puts all responsibility for funding, participation, and vesting of benefit rights in the Department of Treasury. These standards are necessary to ensure that employee benefit plans are adequately funded and that all beneficiary rights are protected. Treasury is the most appropriate Department to administer these provisions; however, Labor will continue to have veto power over Treasury decisions that significantly affect collectively bargained plans.

2) Labor will have statutory authority for fiduciary obligations. ERISA prohibits transactions in which self-interest or conflict of interest could occur, but allows certain exemptions from these prohibitions. Labor will be responsible for overseeing fiduciary conduct under these provisions.

3) Both Departments will retain enforcement powers. The Reorganization Plan will continue Treasury's authority to audit plans and levy tax penalties for any deviation from standards. The plan will also continue Labor's authority to bring civil action against plans and fiduciaries. These provisions are retained in order to keep the special expertise of each Department available. New coordination between the Departments will eliminate duplicative investigations of alleged violations.

This reorganization will make an immediate improvement in ERISA's administration. It will eliminate almost all of the dual and overlapping authority in the two departments and dramatically cut the time required to process applications for exemptions from prohibited transactions.

This plan is an interim arrangement. After the Departments have had a chance to administer ERISA under this new plan, the Office of Management and Budget and the Departments will jointly evaluate that experience. Based on that evaluation, early in 1980, the Administration will make appropriate legislative proposals to establish a long-term administrative structure for ERISA.

Each provision in this reorganization will accomplish one or more of the purposes in Title 5 of U.S.C. 901(a). There will be no change in expenditure or personnel levels, although a small number of people will be transferred from the Department of Treasury to the Department of Labor.

We all recognize that the administration of ERISA has been unduly burdensome. I am confident that this reorganization will significantly relieve much of that burden.

This plan is the culmination of our effort to streamline ERISA. It provides an administrative arrangement that will work.

ERISA has been a symbol of unnecessarily complex government regulation. I hope this new step will become equally symbolic of my Administration's commitment to making government more effective and less intrusive in the lives of our people.

JIMMY CARTER.

THE WHITE HOUSE, August 10, 1978.

EX. ORD. NO. 12071. PRESIDENT'S COMMISSION ON PENSION POLICY

Ex. Ord. No. 12071, July 12, 1978, 43 F.R. 30259, provided:

By the authority vested in me as President by the Constitution of the United States of America, and in order to create in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) an advisory commission on national policies for retirement, survivor, and disability programs, it is hereby ordered as follows:

1-1. ESTABLISHMENT OF COMMISSION

1-101. There is established the President's Commission on Pension Policy. The Commission shall be composed of eleven members.

1-102. The members of the Commission shall be appointed by the President. The President shall designate a Chairman from among the members.

1-2. FUNCTIONS OF THE COMMISSION

1-201. The Commission shall conduct a comprehensive review of retirement, survivor, and disability programs existing in the United States, including private, Federal, State and local programs.

1-202. The Commission shall develop national policies for retirement, survivor, and disability programs that can be used as a guide by public and private programs. Those policies must be designed to ensure that the Nation has effective and equitable retirement, survivor, and disability programs which take into account available resources and demographic changes that are expected into the middle of the next century.

1-203. The Commission shall submit to the President a series of reports. These reports shall include the Commission's findings and recommendations on short-term and long-term issues with respect to retirement, survivor, and disability programs, including, but not restricted to, the following:

(a) present overlaps and gaps among the private, State and local sectors in providing income to retired, surviving, and disabled persons;

(b) the financial ability of present private, Federal, State and local retirement, survivor, and disability systems to meet their future obligations;

(c) appropriate retirement ages, the relationship of the annuity levels to past earnings and contributions, and the role of current retirement, survivor, and disability programs in private capital formation and economic growth;

(d) the implications of the recommended national policies for the financing and benefit structures of the retirement, survivor, and disability programs in the public and private sectors; and

(e) specific reforms and organizational changes in the present systems that may be required to meet the goals of the national policies.

1-204. The Commission shall submit its final report, including its recommendations and findings, to the President prior to its termination.

1-3. ADMINISTRATIVE PROVISIONS AND FINANCIAL SUPPORT

1-301. At the request of the Chairman each Executive agency that has an interest or responsibility in the areas of the Commission's functions shall designate an individual to act as liaison with the Commission and its staff.

1-302. In performing its functions, the Commission shall seek the advice of individuals and groups interested in policies applicable to retirement, survivor, and disability programs and systems. In seeking advice from interested individuals and groups, including public and private organizations, the Commission or any committee thereof, may, among other activities,

hold hearings and sit and act at such times and places as the Commission or such authorized committee may find advisable.

1-303. The Commission may request any Executive agency to furnish such information as may be helpful for the fulfillment of the Commission's functions under this Order. Each such agency is authorized, to the extent permitted by law and within the limits of available funds, to furnish such information to the Commission.

1-304. The Commission is authorized to appoint and fix the compensation of a staff, including not more than one position at the GS-18 level, as may be necessary to enable it to carry out its functions. The Commission may obtain services in accordance with the provisions of Section 3109 of Title 5 of the United States Code, to the extent funds are available therefore [*sic*].

1-305. Each member of the Commission who is not otherwise employed in the Government may receive, to the extent permitted by law, compensation for each day he or she is engaged upon the work of the Commission at a rate not to exceed the maximum daily rate now or hereafter prescribed by law for GS-18 of the General Schedule, and may also receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the government service employed intermittently.

1-306. The General Services Administration shall provide administrative services, facilities, and support to the Commission on a reimbursable basis.

1-307. All necessary expenses incurred in connection with the work of the Commission shall be paid from the appropriation for "Unanticipated Needs," in the Executive Office Appropriations Act, 1978 [Pub. L. 95-81, title III, July 31, 1978, 91 Stat. 344], or from such other funds as may be available.

1-4. General Provisions

1-401. The functions of the President under the Federal Advisory Committee Act (5 U.S.C. App.), except that of reporting annually to the Congress, which are applicable to the Commission, shall be performed by the Administrator of General Services.

1-402. The Commission shall terminate one year after the effective date of this Order.

1-403. This Order shall be effective on the day of the first meeting of the Commission members.

JIMMY CARTER.

Ex. Ord. No. 12108. Effective Date of ERISA Transfers

Ex. Ord. No. 12108, Dec. 28, 1978, 44 F.R. 1065, provided:

By the authority vested in me as President of the United States of America by Section 109 of Reorganization Plan No. 4 of 1978 (43 FR 47713) [set out as a note above], it is hereby ordered that the provisions of Reorganization Plan No. 4 of 1978 shall be effective on Sunday, December 31, 1978.

JIMMY CARTER.

§ 1002. Definitions

Section Referred to in Other Sections

This section is referred to in sections 1003, 1023, 1053, 1055, 1081, 1301, 1321, 1342 of this title; title 18 section 1954; title 31 section 68c.

Subtitle B—Regulatory Provisions

Part 1—Reporting and Disclosure

§ 1023. Annual reports

Section Referred to in Other Sections

This section is referred to in sections 1021, 1024, 1029 of this title; title 31 section 68a.

§ 1024. Filing and furnishing of information

Section Referred to in Other Sections

This section is referred to in sections 1021, 1022, 1023, 1027, 1029 of this title; title 26 section 6058; title 31 section 68a.

Part 2—Participation and Vesting

§ 1053. Minimum vesting standards

Section Referred to in Other Sections

This section is referred to in sections 1002, 1052, 1054, 1056, 1057, 1059, 1060, 1061 of this title; title 26 section 6057.

Part 4—Fiduciary Responsibility

§ 1103. Establishment of trust

Section Referred to in Other Sections

This section is referred to in sections 1104, 1105, 1114 of this title; title 26 section 409A.

§ 1107. Limitation with respect to acquisition and holding of employer securities and employer real property by certain plans

Section Referred to in Other Sections

This section is referred to in sections 1104, 1106, 1108, 1114 of this title; title 19 section 2373.

Subchapter II—Jurisdiction, Administration, Enforcement; Joint Pension Task Force, etc.

Subtitle B—Joint Pension, Profit-Sharing, and Employee Stock Ownership Plan Task Force; Studies

Part 1—Joint Pension, Profit-Sharing, and Employee Stock Ownership Plan Task Force

§§ 1221, 1222. Omitted

Codification

Sections 1221, 1222, Pub. L. 93-406, title III, §§ 3021, 3022, Sept. 2, 1974, 88 Stat. 999; Pub. L. 94-455, title VIII, § 803(i)(1), (2)(A)(iii), title XIX, § 1907(a)(5), Oct. 4, 1976, 90 Stat. 1590, 1591, 1863, were omitted from the Code as executed.

Section 1221 authorized the duties of the Joint Pension, Profit-Sharing, and Employee Stock Ownership Plan Task Force to be performed by the staffs of the committees on Ways and Means and Education and Labor of the House of Representatives, the Joint Committee on Taxation, and the committees on Finance and Human Resources of the Senate and authorized the furnishing of office space, clerical personnel, and such supplies and equipment as needed by the task force to carry out its duties under this subchapter.

Section 1222 authorized the Joint Pension, Profit-Sharing, and Employee Stock Ownership Plan Task Force, within 24 months after Sept. 2, 1974, to study the effect of the requirements of section 411 of Title 26, Internal Revenue Code, and section 1053 of this title to determine the extent of any age group discrimination resulting from the application of such requirements, the means of providing for the portability of pension rights among different pension plans, the appropriate treatment under subchapter III of this chapter of certain small employer plans, the broadening of stock ownership to the American labor force and others, the effect and desirability of federal preemption of state and local law in pension matters, and certain other matters referred to the task force and to report the results of the study to each of the committees referred to in section 1221 of this title.

PART 2—OTHER STUDIES

§§ 1231, 1232. Omitted

CODIFICATION

Sections, Pub. L. 93-406, title III, §§ 3031, 3032, Sept. 2, 1974, 88 Stat. 999, 1000; S. Res. 4, Feb. 4, 1977, were omitted from the Code as executed.

Section 1231 authorized the committees on Education and Labor and Ways and Means of the House of Representatives and the committees on Finance and Human Resources of the Senate to study retirement plans established and maintained or financed, directly or indirectly, by the federal government, any State, including the District of Columbia, any political subdivision thereof, or any agency or instrumentality of any of the foregoing, to determine the adequacy of existing levels of participation, vesting, and financing, existing fiduciary standards, and the need for federal legislation and standards with respect to such plans and required such committees to submit the result of such studies to their respective houses of Congress not later than Dec. 31, 1976.

Section 1232 authorized the Secretary of Labor to investigate the steps necessary to insure that certain personnel employed under federal procurement, construction, or research contracts or grants would be protected against forfeitures of pension or retirement rights or benefits as a result of job transfers or unemployment due to terminations or modifications of federal contracts, grants, or procurement policies, required the Secretary to report the results of his investigation to Congress within two years after Sept. 2, 1974, authorized the Secretary, if feasible, to develop regulations to provide such pension and retirement protection within one year of the submission of his congressional report and submit such regulations for congressional approval no later than three years after Sept. 2, 1974, specified the procedure for a congressional resolution of disapproval should Congress desire to prevent such regulations from taking effect, and required such a resolution before the close of the one hundred and twenty day period beginning on the day such regulations were delivered to Congress.

SUBCHAPTER III—PLAN TERMINATION INSURANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1103, 1144 of this title; title 26 section 6103; title 45 sections 743, 775.

SUBTITLE A—PENSION BENEFIT GUARANTY CORPORATION

§ 1302. Pension Benefit Guaranty Corporation

[See main edition for text of (a) and (b)]

(c) Board of directors; compensation; reimbursement for expenses

The board of directors of the corporation consists of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Commerce. Members of the Board shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the board. The Secretary of Labor is the chairman of the board of directors.

[See main edition for text of (d) to (g); credits]

CODIFICATION

Subsec. (c) of this section is set out in this supplement to correct a typographical error in the main edition.

§ 1304. Temporary authority for initial period

[See main edition for text of (a) to (e)]

(f) Omitted

[See main edition for credits]

CODIFICATION

Subsec. (f) of this section, which prescribed additional corporate powers during an initial period of 270 days after Sept. 2, 1974, was omitted from the Code as obsolete.

§ 1306. Premium rates

[See main edition for text of (a)]

(b)(1) In order to place a revised coverage schedule (other than a schedule described in subsection (a)(2)(B) or (C) of this section) in effect, the corporation shall transmit the proposed schedule, its proposed effective date, and the reasons for its proposal to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives, and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate.

[See main edition for text of (2) and (3)]

(4) A resolution shall be referred to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate.

[See main edition for text of (5) to (7)]

(As amended S. Res. 30, Mar. 7, 1979.)

CHANGE OF NAME

The name of the Committee on Human Resources of the Senate was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See, also, Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1302, 1362, 1381 of this title.

SUBTITLE B—COVERAGE

§ 1322. Benefits guaranteed

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1301, 1305, 1306, 1321, 1343, 1344, 1346, 1361, 1381 of this title; title 42 section 430.

SUBTITLE C—TERMINATIONS

§ 1341. Termination by plan administrator

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1303, 1348 of this title.

§ 1342. Termination by corporation

[See main edition for text of (a) to (e)]

(f) Exclusive jurisdiction; stay of other proceedings

Upon the filing of an application for the appointment of a trustee or the issuance of a

decree under this section, the court to which an application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this section, of a court of the United States having jurisdiction over cases under chapter 11 of title 11. Pending an adjudication under subsection (c) of this section such court shall stay, and upon appointment by it of a trustee, as provided in this section such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan or its property and any other suit against any receiver, conservator, or trustee of the plan or its property. Pending such adjudication and upon the appointment by it of such trustee, the court may stay any proceeding to enforce a lien against property of the plan or any other suit against the plan.

[*See main edition for text of (g) and (h)*]

(As amended Pub. L. 95–598, title III, § 321(a), Nov. 6, 1978, 92 Stat. 2678.)

REFERENCES IN TEXT

Section 75 of title 11, referred to in subsec. (d)(3), in the original read "section 47 of the Bankruptcy Act". The Bankruptcy Act was repealed effective Oct. 1, 1979, by Pub. L. 95–598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted Title 11, Bankruptcy.

AMENDMENTS

1978—Subsec. (f). Pub. L. 95–598 substituted in first sentence "of a court of the United States having jurisdiction over cases under chapter 11 of title 11" for "of a court of bankruptcy and of a court in a proceeding under chapter X of the Bankruptcy Act" and in second sentence struck out "bankruptcy," preceding "mortgage foreclosure".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

SUBTITLE D—LIABILITY

§ 1362. Liability of employer

[*See main edition for text of (a) and (b)*]

(c) Net worth of employer

For purposes of subsection (b)(2) of this section the net worth of an employer is—

[*See main edition for text of (1)*]

(2) increased by the amount of any transfers of assets made by the employer determined by the corporation to be improper under the circumstances, including any such transfers which would be inappropriate under title 11 if the employer were a debtor in a case under chapter 7 of such title.

[*See main edition for text of (d) and (e)*]

(As amended Pub. L. 95–598, title III, § 321(b), Nov. 6, 1978, 92 Stat. 2678.)

AMENDMENTS

1978—Subsec. (c)(2). Pub. L. 95–598 substituted "title 11" and "a debtor in a case under chapter 7 of such title" for "the Bankruptcy Act" and "the subject of a proceeding under that Act".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1342, 1363, 1364, 1367, 1368 of this title; title 26 section 404.

§ 1363. Liability of substantial employer for withdrawal

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1342, 1362, 1365, 1367, 1368 of this title; title 26 section 404.

§ 1364. Liability of employers on termination of plan maintained by more than one employer

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1342, 1362, 1363, 1367, 1368 of this title; title 26 section 404.

§ 1368. Lien for liability of employer

[*See main edition for text of (a) and (b)*]

(c) Priority

[*See main edition for text of (1)*]

(2) In a case under title 11 or in insolvency proceedings, the lien imposed under subsection (a) of this section shall be treated in the same manner as a tax due and owing to the United States for purposes of title 11 or section 191 of title 31.

[*See main edition for text of (3) and (4); (d) to (e)*]

(As amended Pub. L. 95–598, title III, § 321(c), Nov. 6, 1978, 92 Stat. 2678.)

AMENDMENTS

1978—Subsec. (c)(2). Pub. L. 95–598 substituted "a case under title 11 or in" and "title 11" for "the case of bankruptcy or" and "the Bankruptcy Act".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

SUBTITLE E—EFFECTIVE DATE; SPECIAL RULES

§ 1381. Effective date; special rules

[*See main edition for text of (a) and (b)*]

(c)(1) Except as provided in paragraphs (2), (3), and (4), the corporation shall not pay benefits guaranteed under this subchapter with respect to a multiemployer plan which terminates before May 1, 1980. Whenever the corporation exercises the authority granted under paragraph (2) or (3), the corporation shall notify the Committee on Education and Labor and the Committee on Ways and Means of the House of

Representatives, and the Committee on Labor and Human Resources and the Committee on Finance of the Senate.

(2) The corporation may, in its discretion, pay benefits guaranteed under this subchapter with respect to a multiemployer plan which terminates after September 2, 1974 and before May 1, 1980, if—

(A) the plan was maintained during the 60 months immediately preceding the date on which the plan terminates, and

(B) the corporation determines that the payment by the corporation of benefits guaranteed under this subchapter with respect to that plan will not jeopardize the payments the corporation anticipates it may be required to make in connection with benefits guaranteed under this subchapter with respect to multiemployer plans which terminate after April 30, 1980.

[*See main edition for text of (3)*]

(4) If the corporation determines, under paragraph (2) or (3), that it will pay benefits guaranteed under this subchapter with respect to a multiemployer plan which terminates before May 1, 1980, the corporation—

[*See main edition for text of (A) to (C)*]

(D) shall review from time to time payments made under the authority granted to it by paragraphs (2) and (3), and reduce or terminate such payments to the extent necessary to avoid jeopardizing the ability of the corporation to make payments of benefits guaranteed under this subchapter in connection with multiemployer plans which terminate after April 30, 1980, without increasing premium rates for such plans.

(d) The corporation shall present to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Finance of the Senate a report which comprehensively addresses the anticipated financial condition of the program relating to mandatory coverage of multiemployer plans, including possible events which might cause the corporation to experience serious financial difficulty after July 1, 1979. Such report shall include an explanation of any alternative courses of action which might be taken by the corporation to insure proper coverage of multiemployer plans and the proper financing of the program relating to such plans. If the report contains recommendations for amendments to this title, such recommendations shall be fully explained, and shall be accompanied by explanations of other options for legislative change considered and rejected by the corporation. The report shall be presented by July 1, 1978.

(e) Notwithstanding any provision of this subchapter to the contrary, the annual insurance premium payable to the Pension Benefit Guaranty Corporation for coverage of basic benefits guaranteed under section 1322 of this title by plans that are not multiemployer plans shall be $2.60 for each participant in the plan. This subsection shall be effective for plan years beginning on or after January 1, 1978, and the premium prescribed by this subsection shall be deemed to be the rate imposed by this subchapter for non-multiemployer plans until the rate schedule for such plans is revised pursuant to the procedure set out in section 1306 of this title.

(As amended Pub. L. 95-214, § 1, Dec. 19, 1977, 91 Stat. 1501; S. Res. 30, Mar. 7, 1979; Pub. L. 96-24, June 19, 1979, 93 Stat. 70.)

AMENDMENTS

1979—Subsec. (c)(1). Pub. L. 96-24, § 1(1), substituted "May 1, 1980" for "July 1, 1979".

Subsec. (c)(2). Pub. L. 96-24, § 1(1), (2), substituted "May 1, 1980" for "July 1, 1979" in the provisions preceding subpar. (A) and "April 30, 1980" for "June 30, 1979" in subpar. (B).

Subsec. (c)(4). Pub. L. 96-24, § 1 (1), (2), substituted "May 1, 1980" for "July 1, 1979" in the provisions preceding subpar. (A) and "April 30, 1980" for "June 30, 1979" in subpar. (D).

1977—Subsec. (c)(1). Pub. L. 95-214, § 1(a)(1), substituted "July 1, 1979" for "January 1, 1978".

Subsec. (c)(2). Pub. L. 95-214, § 1(a)(2), substituted "July 1, 1979" for "January 1, 1978" in the provisions preceding subpar. (A).

Subsec. (c)(2)(B). Pub. L. 95-214, § 1(a)(3), substituted "June 30, 1979" for "December 31, 1977".

Subsec. (c)(4). Pub. L. 95-214, § 1(a)(4), substituted "July 1, 1979" for "January 1, 1978" in the provisions preceding subpar. (A).

Subsec. (c)(4)(D). Pub. L. 95-214, § 1(a)(5), substituted "June 30, 1979" for "December 31, 1977".

Subsecs. (d), (e). Pub. L. 95-214, § 1(b), added subsecs. (d) and (e).

CHANGE OF NAME

The name of the Committee on Human Resources of the Senate was changed to the Committee on Labor and Human Resources effective Mar. 7, 1979, by Senate Resolution 30, 96th Congress. See, also, Rule XXV of the Standing Rules of the Senate adopted Nov. 14, 1979.